

17B-1-101. Title.

(1) This title is known as "Limited Purpose Local Government Entities - Local Districts."

(2) This chapter is known as "Provisions Applicable to All Local Districts."

Enacted by Chapter 329, 2007 General Session

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic local district":

(a) means a local district that is not a specialized local district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a local district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and
(B) on taxable property within the district; and
(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

- (i) a short-term bond;
- (ii) a tax and revenue anticipation bond; or
- (iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

- (i) provide the requested service; or
- (ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

(a) this chapter; or

(b) (i) this chapter; and

(ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

(B) Chapter 2a, Part 2, Drainage District Act;

(C) Chapter 2a, Part 3, Fire Protection District Act;

(D) Chapter 2a, Part 4, Improvement District Act;

(E) Chapter 2a, Part 5, Irrigation District Act;

(F) Chapter 2a, Part 6, Metropolitan Water District Act;

(G) Chapter 2a, Part 7, Mosquito Abatement District Act;

(H) Chapter 2a, Part 8, Public Transit District Act;

(I) Chapter 2a, Part 9, Service Area Act; or

(J) Chapter 2a, Part 10, Water Conservancy District Act.

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water

District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) "Municipal" means of or relating to a municipality.

(17) "Municipality" means a city or town.

(18) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

(19) "Political subdivision" means a county, city, town, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(20) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(21) "Public entity" means:

- (a) the United States or an agency of the United States;
- (b) the state or an agency of the state;
- (c) a political subdivision of the state or an agency of a political subdivision of the state;
- (d) another state or an agency of that state; or
- (e) a political subdivision of another state or an agency of that political subdivision.

(22) "Public transit district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

(23) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the local district's ad valorem property taxes; and

(b) does not include:

- (i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;
- (ii) a tax and revenue anticipation bond; or
- (iii) a special assessment bond.

(24) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

(25) "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

(26) "Service area" means a local district that operates under and is subject to

the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

(27) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

(28) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

(29) "Special assessment bond" means a bond payable from special assessments.

(30) "Specialized local district" means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, or a water conservancy district.

(31) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

(32) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

(33) "Unincorporated" means not included within a municipality.

(34) "Water conservancy district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

(35) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Amended by Chapter 107, 2011 General Session

Amended by Chapter 205, 2011 General Session

17B-1-103. Local district status and powers.

(1) A local district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A local district may:

(a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the

district's powers;

(c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);

(d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;

(e) borrow money and incur indebtedness for any lawful district purpose;

(f) issue bonds, including refunding bonds:

(i) for any lawful district purpose; and

(ii) as provided in and subject to Part 11, Local District Bonds;

(g) levy and collect property taxes:

(i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and

(ii) as provided in and subject to Part 10, Local District Property Tax Levy;

(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

(j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

(A) maintaining and operating the district;

(B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

(C) issuing bonds and paying debt service on district bonds; and

(D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the local district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes;

(r) (i) except for a local district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a local district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public; and

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) with:

(A) another political subdivision of the state; or

(B) a public or private owner of property:

(I) on which the district has a right-of-way; or

(II) adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way.

(3) With respect to a local district's use of a street or highway, as provided in Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

(i) an excavation and the refilling of an excavation;

(ii) the relaying of pavement; and

(iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

(i) may not require the district to pay a license or permit fee or file a bond; and

(ii) may require the district to pay a reasonable inspection fee.

(4) (a) A local district may:

(i) acquire, lease, or construct and operate electrical generation, transmission,

and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's:

- (I) operation of a project or facilities that the district is authorized to operate; or
- (II) providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii) (A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A local district may adopt and, after adoption, alter a corporate seal.

(6) (a) As used in this Subsection (6), "knife" means a cutting instrument that includes a sharpened or pointed blade.

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district.

(c) Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife.

Amended by Chapter 68, 2011 General Session

Amended by Chapter 272, 2011 General Session

17B-1-104. Property owner provisions.

(1) For purposes of this title:

(a) the owner of real property shall be:

(i) except as provided in Subsection (1)(a)(ii), the fee title owner according to the records of the county recorder on the date of the filing of the request or petition; or

(ii) for a proposed annexation under Part 4, Annexation, the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment before the filing of the request or petition, as determined by:

(i) the county under Title 59, Chapter 2, Part 3, County Assessment, for property subject to assessment by the county;

(ii) the State Tax Commission under Title 59, Chapter 2, Part 2, Assessment of Property, for property subject to assessment by the State Tax Commission; or

(iii) the county, for all other property.

(2) For purposes of each provision of this title that requires the owners of private

real property covering a percentage of the total private land area within the proposed local district to sign a request, petition, or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage unless the request or petition is signed by:

(i) except as provided in Subsection (2)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that reasonably substantiates the person's representative capacity; and

(c) subject to Subsection (2)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Amended by Chapter 92, 2009 General Session

17B-1-104.5. Groundwater right owner provisions -- Vote.

(1) For purposes of this title, an owner of a groundwater right, is on the date of the filing of a groundwater right owner petition or groundwater right owner request, the owner according to:

(a) a deed recorded with the county recorder in accordance with Section 73-1-10; or

(b) a water right of record filed in the state engineer's office in accordance with Section 73-1-10.

(2) For purposes of each provision of this title that requires the owners of groundwater rights covering a percentage of the total groundwater rights within the proposed local district to sign a request, petition, or protest:

(a) a groundwater right may not be included in the calculation of the required percentage unless the request or petition is signed by:

(i) except as provided in Subsection (2)(a)(ii), owners representing a majority ownership interest in that groundwater right; or

(ii) if the groundwater right is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that groundwater right;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that reasonably substantiates the person's representative capacity; and

(c) subject to Subsection (2)(b), a duly appointed personal representative may sign a request or petition on behalf of the estate of a deceased owner.

(3) For an election by groundwater right owners described in this title, each owner of a groundwater right is entitled to cast one vote.

Enacted by Chapter 68, 2011 General Session

17B-1-105. Name of local district -- Name change.

(1) (a) The name of each local district created on or after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(b) The board of each local district affected by Subsection 17-50-103(2)(b) shall ensure that after January 1, 2005 the local district name complies with the requirements of that Subsection.

(2) The name of a local district created after April 30, 2007 may not include the name of a county or municipality.

(3) The name of a local district may include words descriptive of the type of service that the district provides.

(4) (a) A local district board may change the name of that local district as provided in this Subsection (4).

(b) To initiate a name change, the local district board shall:

(i) hold a public hearing on the proposed name change;

(ii) adopt a resolution approving the name change; and

(iii) file with the lieutenant governor a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(c) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the local district board shall:

(i) if the local district is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending name change; and

(II) certificate of name change; and

(B) a certified copy of the resolution approving the name change; or

(ii) if the local district is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (4)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (4)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change.

(d) (i) A name change under this Subsection (4) becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.

(ii) Notwithstanding Subsection (4)(d)(i), the local district may not operate under the new name until the documents listed in Subsection (4)(c) are recorded in the office of the recorder of each county in which the local district is located.

Amended by Chapter 350, 2009 General Session

17B-1-106. Notice before preparing or amending a long-range plan or

acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this title located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) (I) placed on the Utah Public Notice Website created under Section 63F-1-701, if the local district:

(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or

(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or

(II) the state planning coordinator appointed under Section 63J-4-202, if the local district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);

(iv) with respect to the notice to counties and municipalities described in

Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of a person where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities used for providing the services that the district is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Amended by Chapter 445, 2013 General Session

17B-1-107. Recording a release of lien.

If a local district records a lien upon real property or a groundwater right for an unpaid assessment by the owner and the owner then pays the assessment in full, including any interest and penalties, the local district recording the lien shall record the

release of the lien.

Amended by Chapter 150, 2010 General Session

17B-1-108. Restrictions on local district procurement of architect-engineer services.

(1) As used in this section:

(a) "Architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102.

(b) "Engineer services" means those professional services within the scope of the practice of professional engineering as defined in Section 58-22-102.

(2) When a local district elects to obtain architect services or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the local district's competitive procurement process; and

(b) the local district may not award a contract to perform the architect services or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

(3) Notwithstanding Subsection 63G-6a-105(3), each local district board that engages the services of a professional architect, engineer, or surveyor and considers more than one such professional for the engagement:

(a) shall consider, as a minimum, in the selection process:

(i) the qualifications, experience, and background of each firm submitting a proposal;

(ii) the specific individuals assigned to the project and the time commitments of each to the project; and

(iii) the project schedule and the approach to the project that the firm will take; and

(b) may engage the services of a professional architect, engineer, or surveyor based on the criteria under Subsection (3)(a) rather than solely on lowest cost.

Amended by Chapter 347, 2012 General Session

17B-1-110. Compliance with nepotism requirements.

Each local district shall comply with Title 52, Chapter 3, Prohibiting Employment of Relatives.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-111. Impact fee resolution -- Notice and hearing requirements.

(1) (a) If a local district wishes to impose impact fees, the board of trustees of the local district shall:

(i) prepare a proposed impact fee resolution that meets the requirements of Title 11, Chapter 36a, Impact Fees Act;

(ii) make a copy of the impact fee resolution available to the public at least 14

days before the date of the public hearing and hold a public hearing on the proposed impact fee resolution; and

(iii) provide reasonable notice of the public hearing at least 14 days before the date of the hearing.

(b) After the public hearing, the board of trustees may:

(i) adopt the impact fee resolution as proposed;

(ii) amend the impact fee resolution and adopt or reject it as amended; or

(iii) reject the resolution.

(2) A local district meets the requirements of reasonable notice required by this section if it:

(a) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(b) gives actual notice of the hearing or meeting.

(3) The local district's board of trustees may enact a resolution establishing stricter notice requirements than those required by this section.

(4) (a) Proof that one of the two forms of notice required by this section was given is prima facie evidence that notice was properly given.

(b) If notice given under authority of this section is not challenged within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Amended by Chapter 47, 2011 General Session

17B-1-112. Publishing district information in telephone directory.

(1) Each local district with a total annual budget over \$5,000 shall:

(a) subject to Subsection (2), provide the name, telephone number, and address of the district to the telephone directory publisher serving the geographic area within which the district is located; and

(b) request the telephone directory publisher to publish the district's name, telephone number, and address in the government or other appropriate government-related section of the publisher's telephone directory that serves the area within which the district is located.

(2) If the district does not have a telephone or address or both, the district shall provide the telephone number or address or both, as the case may be, of the district's officer in charge of the district's day to day operations, for and in the place of the telephone number or address or both of the district.

(3) Subsection (1) does not apply to a local district whose name, telephone number, and address are published in the government or other appropriate government-related section of the telephone directory of the telephone directory publisher serving the geographic area within which the local district is located.

Enacted by Chapter 329, 2007 General Session

17B-1-113. Liability insurance.

Each local district with an annual operating budget of \$50,000 or more shall

obtain liability insurance as considered appropriate by the local district board.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-114. Local district property taxes on a parity with general taxes.

Unless otherwise specifically provided by statute, property taxes levied by a local district shall constitute a lien on the property on a parity with and collectible at the same time and in the same manner as general county taxes that are a lien on the property.

Enacted by Chapter 329, 2007 General Session

17B-1-115. Validation of previously created local districts -- Continuation of certain local districts under this chapter -- Providing a previously authorized service.

(1) Each local district created before April 30, 2007 under the law in effect at the time of the creation is declared to be validly and legally constituted.

(2) An entity created and operating under the law in effect before April 30, 2007 as a local district but not as a cemetery maintenance district, drainage district, fire protection district, improvement district, irrigation district, metropolitan water district, mosquito abatement district, public transit district, service area, or water conservancy district shall continue on and after April 30, 2007 as a local district subject to the provisions of this chapter but not subject to the provisions of Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(3) Nothing in this title may be construed to prohibit or limit a local district from providing on or after April 30, 2007 a service that it was authorized before that date to provide.

Enacted by Chapter 329, 2007 General Session

17B-1-116. Property exempt from taxation and execution.

All property and assets of a local district are exempt from taxation and exempt from execution.

Enacted by Chapter 329, 2007 General Session

17B-1-117. Severability.

A court's invalidation of any provision of this title may not be considered to affect the validity of any other provision of this title.

Enacted by Chapter 329, 2007 General Session

17B-1-118. Local district hookup fee -- Preliminary design or site plan from a specified public agency.

(1) As used in this section:

(a) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a local district water, sewer, storm water, power,

or other utility system.

(b) "Impact fee" has the same meaning as defined in Section 11-36a-102.

(c) "Specified public agency" means:

(i) the state;

(ii) a school district; or

(iii) a charter school.

(d) "State" includes any department, division, or agency of the state.

(2) A local district may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the local district water, sewer, storm water, power, or other utility system.

(3) (a) A specified public agency intending to develop its land shall submit a development plan and schedule to each local district from which the specified public agency anticipates the development will receive service:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the local district to assess:

(A) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c), (d), (e), and (g) caused by the development;

(B) the amount of any hookup fees, or impact fees or substantive equivalent;

(C) any credit against an impact fee; and

(D) the potential for waiving an impact fee.

(b) The local district shall respond to a specified public agency's submission under Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to consider information the local district provides under Subsection (3)(a)(ii) in the process of preparing the budget for the development.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection (3) that complies with the requirements of that subsection, the specified public agency vests in the local district's hookup fees and impact fees in effect on the date of submission.

Amended by Chapter 200, 2013 General Session

17B-1-119. Duty to comply with local land use provisions.

A local district shall comply with Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, and Title 17, Chapter 27a, County Land Use, Development, and Management Act, as applicable, if a land use authority consults with or allows the local district to participate in any way in a land use authority's land use development review or approval process.

Repealed and Re-enacted by Chapter 309, 2013 General Session

17B-1-120. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A local district may impose an exaction on a service received by an applicant, including, subject to Subsection (2), an exaction for a water interest if:

(a) the local district establishes that a legitimate local district interest makes the

exaction essential; and

(b) the exaction is roughly proportionate, both in nature and extent, to the impact of the proposed service on the local district.

(2) (a) (i) A local district shall base an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) If requested by a service applicant, the culinary authority shall provide the basis for the culinary water authority's calculations described in Subsection (2)(a)(i).

(b) A local district may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined in accordance with Section 73-1-4.

(3) (a) If a local district plans to dispose of surplus real property that was acquired under this section and has been owned by the local district for less than 15 years, the local district shall offer to reconvey the surplus real property, without receiving additional consideration, first to a person who granted the real property to the local district.

(b) The person described in Subsection (3)(a) shall, within 90 days after the day on which a local district makes an offer under Subsection (3)(a), accept or reject the offer.

(c) If a person rejects an offer under Subsection (3)(b), the local district may sell the real property.

Enacted by Chapter 205, 2011 General Session

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A local district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a local district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the local district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the local district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the local district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A local district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the local district's final decision.

(3) A local district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36-102 and subject to Section 11-36-202, for a public facility listed in Subsection 11-36-102(13)(a), (b), (c), (d), (e), or (g).

Enacted by Chapter 205, 2011 General Session

17B-1-201. Definitions.

As used in this part:

(1) "Applicable area" means:

(a) for a county, the unincorporated area of the county that is included within the proposed local district; or

(b) for a municipality, the area of the municipality that is included within the proposed local district.

(2) "Governing body" means:

(a) for a county or municipality, the legislative body of the county or municipality; and

(b) for a local district, the board of trustees of the local district.

(3) "Groundwater right owner petition" means a petition under Subsection 17B-1-203(1)(c).

(4) "Groundwater right owner request" means a request under Section 17B-1-204 that is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).

(5) "Initiating local district" means a local district that adopts a resolution proposing the creation of a local district under Subsection 17B-1-203(1)(e).

(6) "Petition" means a petition under Subsection 17B-1-203(1)(a), (b), or (c).

(7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).

(8) "Property owner request" means a request under Section 17B-1-204 that is signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).

(9) "Registered voter request" means a request under Section 17B-1-204 that is signed by registered voters as provided in Subsection 17B-1-204(2)(b)(iii).

(10) "Registered voter petition" means a petition under Subsection 17B-1-203(1)(b).

(11) "Request" means a request as described in Section 17B-1-204.

(12) "Responsible body" means the governing body of:

(a) the municipality in which the proposed local district is located, if the petition or resolution proposes the creation of a local district located entirely within a single municipality;

(b) the county in which the proposed local district is located, if the petition or resolution proposes the creation of a local district located entirely within a single county and all or part of the proposed local district is located within:

(i) the unincorporated part of the county; or

(ii) more than one municipality within the county;

(c) if the petition or resolution proposes the creation of a local district located within more than one county, the county whose boundaries include more of the area of the proposed local district than is included within the boundaries of any other county; or

(d) the initiating local district, if a resolution proposing the creation of a local district is adopted under Subsection 17B-1-203(1)(e).

(13) "Responsible clerk" means the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body.

Amended by Chapter 68, 2011 General Session

17B-1-202. Local district may be created -- Services that may be provided -- Limitations.

(1) (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water,

whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A local district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the local district is subject to Section 73-1-4.

(v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) For purposes of this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine

together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service already being provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

- (i) sewage system; or
- (ii) water system.

(5) (a) Except for a local district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a local district need not be contiguous.

(6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

- (a) paramedic service; and
- (b) emergency service, including hazardous materials response service.

(7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section 17B-1-217 if the local district proposed for creation:

- (a) provides the same or a substantially similar service as the dissolved local district; and
- (b) is located in substantially the same area as the dissolved local district.

Amended by Chapter 246, 2013 General Session

Amended by Chapter 448, 2013 General Session

17B-1-203. Process to initiate the creation of a local district -- Petition or resolution.

(1) The process to create a local district may be initiated by:

- (a) unless the proposed local district is a local district to acquire or assess a

groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of private real property that:

- (i) is located within the proposed local district;
- (ii) covers at least 33% of the total private land area within the proposed local district as a whole and within each applicable area;
- (iii) is equal in value to at least 25% of the value of all private real property within the proposed local district as a whole and within each applicable area; and
- (iv) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(b) subject to Section 17B-1-204, a petition that:

- (i) is signed by registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 33% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last regular general election prior to the filing of the petition; and

(ii) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(c) if the proposed local district is a local district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:

- (i) are diverted within the proposed local district;
- (ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area; and

(iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(d) a resolution proposing the creation of a local district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed local district; or

(e) a resolution proposing the creation of a local district, adopted by the board of trustees of an existing local district whose boundaries completely encompass the proposed local district, if:

(i) the proposed local district is being created to provide one or more components of the same service that the initiating local district is authorized to provide; and

(ii) the initiating local district is not providing to the area of the proposed local district any of the components that the proposed local district is being created to provide.

(2) (a) Each resolution under Subsection (1)(d) or (e) shall:

- (i) describe the area proposed to be included in the proposed local district;
- (ii) be accompanied by a map that shows the boundaries of the proposed local district;
- (iii) describe the service proposed to be provided by the proposed local district;
- (iv) if the resolution proposes the creation of a specialized local district, specify the type of specialized local district proposed to be created;

- (v) explain the anticipated method of paying the costs of providing the proposed service;
- (vi) state the estimated average financial impact on a household within the proposed local district;
- (vii) state the number of members that the board of trustees of the proposed local district will have, consistent with the requirements of Subsection 17B-1-302(2);
- (viii) for a proposed basic local district:
 - (A) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
 - (B) if one or more members will be elected, state the basis upon which each elected member will be elected; and
 - (C) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;
- (ix) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and
- (x) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:
 - (A) the county legislative body;
 - (B) appointed as provided in Section 17B-1-304; or
 - (C) elected as provided in Section 17B-1-306.
- (b) Each county or municipal legislative body adopting a resolution under Subsection (1)(d) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same local district.

Amended by Chapter 70, 2013 General Session

17B-1-204. Request for service required before filing of petition -- Request requirements.

- (1) A petition may not be filed until after:
 - (a) a request has been filed with:
 - (i) the clerk of each county in whose unincorporated area any part of the proposed local district is located; and
 - (ii) the clerk or recorder of each municipality in which any part of the proposed local district is located; and
 - (b) each county and municipality with which a request under Subsection (1)(a) is filed:
 - (i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will provide the requested service; or
 - (ii) is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).
- (2) Each request under Subsection (1)(a) shall:

- (a) ask the county or municipality to provide the service proposed to be provided by the proposed local district within the applicable area; and
- (b) be signed by:
 - (i) unless the request is a request to create a local district to acquire or assess a groundwater right under Section 17B-1-202, the owners of private real property that:
 - (A) is located within the proposed local district;
 - (B) covers at least 10% of the total private land area within the applicable area;
 - and
 - (C) is equal in value to at least 7% of the value of all private real property within the applicable area;
 - (ii) if the request is a request to create a local district to acquire or assess a groundwater right under Section 17B-1-202, the owners of groundwater rights that:
 - (A) are diverted within the proposed local district; and
 - (B) cover at least 10% of the amount of groundwater diverted in accordance with groundwater rights within the applicable area; or
 - (iii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the filing of the request.
- (3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of filing of a petition shall be considered to be part of that municipality.

Amended by Chapter 68, 2011 General Session

17B-1-205. Petition and request requirements -- Withdrawal of signature.

- (1) Each petition and request shall:
 - (a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;
 - (b) (i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or
 - (ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;
 - (c) describe the entire area of the proposed local district;
 - (d) be accompanied by a map showing the boundaries of the entire proposed local district;
 - (e) specify the service proposed to be provided by the proposed local district;
 - (f) if the petition or request proposes the creation of a specialized local district, specify the type of specialized local district proposed to be created;
 - (g) for a proposed basic local district:
 - (i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;
 - (ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and
 - (iii) if applicable, explain how the election or appointment of board members will

transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and

(i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(i) the county legislative body;

(ii) appointed as provided in Section 17B-1-304; or

(iii) elected as provided in Section 17B-1-306;

(j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(k) if the petition or request is a groundwater right owner petition or request proposing the creation of a local district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of paying for the groundwater right acquisition; and

(ii) of addressing blowing dust created by the reduced use of water; and

(l) if the petition or request is a groundwater right owner petition or request proposing the creation of a local district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of assessing the groundwater right and securing payment of the assessment; and

(ii) of addressing blowing dust created by the reduced use of water.

(2) A signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:

(a) in the case of a request:

(i) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's property is located, if the request is a property owner request;

(ii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or

(iii) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or

(b) in the case of a petition, the responsible clerk.

Amended by Chapter 68, 2011 General Session

17B-1-206. Request certification -- Amended request.

(1) Within 30 days after the filing of a request, the clerk of each county and the clerk or recorder of each municipality with which a request was filed shall:

(a) with the assistance of other county or municipal officers from whom the clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the request complies with the requirements of Subsections

17B-1-204(2) and 17B-1-205(1); and

(b) (i) if the clerk or recorder determines that the request complies with the requirements:

(A) certify the request and deliver it to the legislative body of the county or municipality, as the case may be; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the clerk or recorder determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) If the clerk or recorder fails to certify or reject a request within 30 days after its filing, the request shall be considered to be certified.

(3) Each county clerk or municipal clerk or recorder shall certify or reject requests in the order in which they are filed.

(4) (a) If the county clerk or municipal clerk or recorder rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a request that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the request as amended under Subsection (4)(a).

(5) Each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-207. Signature on request may be used on petition.

A signature on a request may be used toward fulfilling the signature requirement of a petition:

(1) if the request notifies the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition to create a local district; and

(2) unless the signer files a written withdrawal of the signature before the petition is filed.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-208. Additional petition requirements and limitations.

(1) Each petition shall:

(a) be filed with the responsible clerk;

(b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the proposed local district are grouped separately; and

(c) state the number of members that the board of trustees of the proposed local district will have, consistent with the requirements of Subsection 17B-1-302(2).

(2) (a) A petition may not propose the creation of a local district that includes an

area located within the unincorporated part of a county or within a municipality if the legislative body of that county or municipality has adopted a resolution under Subsection 17B-1-212(1) indicating that the county or municipality will provide to that area the service proposed to be provided by the proposed local district.

(b) Subsection (2)(a) does not apply if the county or municipal legislative body is considered to have declined to provide the requested service under Subsection 17B-1-212(3).

(c) Subsection (2)(a) may not be construed to prevent the filing of a petition that proposes the creation of a local district whose area excludes that part of the unincorporated area of a county or that part of a municipality to which the county or municipality has indicated, in a resolution adopted under Section 17B-1-212, it will provide the requested service.

(3) A petition may not propose the creation of a local district whose area includes:

(a) some or all of an area described in a previously filed petition that, subject to Subsection 17B-1-202(4)(b):

(i) proposes the creation of a local district to provide the same service as proposed by the later filed petition; and

(ii) is still pending at the time the later petition is filed; or

(b) some or all of an area within a political subdivision that provides in that area the same service proposed to be provided by the proposed local district.

(4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-209. Petition certification -- Amended petition.

(1) No later than five days after the day on which a petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed local district is located.

(2) (a) No later than 35 days after the day on which a petition is filed, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed local district shall:

(i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, and Subsections 17B-1-208(2), (3), and (4); and

(ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).

(b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).

(3) (a) Within 45 days after the filing of a petition, the responsible clerk shall:
(i) determine whether the petition complies with Subsection 17B-1-203(1)(a), (b), or (c), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208; and
(ii) (A) if the responsible clerk determines that the petition complies with the applicable requirements:

(I) (Aa) certify the petition and deliver the certified petition to the responsible body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor;
or

(II) for each petition described in Subsection (3)(b)(i), deliver a copy of the petition to the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed basic local district, with a notice indicating that the clerk has determined that the petition complies with applicable requirements; or

(B) if the responsible clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(b) (i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic local district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land may not be certified without the approval, by resolution, of the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed local district.

(ii) Before adopting a resolution giving its approval under Subsection (3)(b)(i), a county or municipal legislative body may hold one or more public hearings on the petition.

(iii) If a petition described in Subsection (3)(b)(i) is approved as provided in that subsection, the responsible clerk shall, within 10 days after its approval:

(A) certify the petition and deliver the certified petition to the responsible body;
and

(B) mail or deliver written notification of the certification to the contact sponsor.

(4) Except for a petition described in Subsection (3)(b)(i), if the responsible clerk fails to certify or reject a petition within 45 days after its filing, the petition shall be considered to be certified.

(5) The responsible clerk shall certify or reject petitions in the order in which they are filed.

(6) (a) If the responsible clerk rejects a petition under Subsection (3)(a)(ii)(B), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (3)(a)(ii)(B) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).

(c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection (3)(a)(ii)(B), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.

(7) The responsible clerk and each county clerk and municipal clerk or recorder shall act in good faith in making the determinations under this section.

Amended by Chapter 68, 2011 General Session

17B-1-210. Public hearing.

(1) The legislative body of each county and municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the proposed local district need travel an unreasonable distance to attend a public hearing.

(2) Each public hearing under Subsection (1) shall be held:

(a) no later than 45 days after:

(i) for a public hearing on a request, certification of a request under Subsection 17B-1-206(1)(b)(i); or

(ii) for a public hearing on a resolution, adoption of a resolution under Subsection 17B-1-203(1)(d) or (e);

(b) within the proposed local district;

(c) except as provided in Subsections (6) and (7), within the applicable area; and

(d) for the purpose of:

(i) for a public hearing on a request, allowing public input on:

(A) whether the requested service is needed in the area of the proposed local district;

(B) whether the service should be provided by the county or municipality or the proposed local district; and

(C) all other matters relating to the request or the proposed local district; or

(ii) for a public hearing on a resolution, allowing the public to ask questions of and obtain further information from the governing body holding the hearing regarding the issues contained in or raised by the resolution.

(3) A quorum of each governing body holding a public hearing under this section shall be present throughout each hearing held by that governing body.

(4) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.

(5) At the beginning and end of each hearing concerning a resolution, the governing body shall announce the deadline for filing protests and generally explain the protest procedure and requirements.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (2)(c), are met as to each hearing.

(7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable

area as reasonably possible.

Amended by Chapter 68, 2011 General Session

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

(a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area in accordance with Subsection (2); or

(B) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post notice in accordance with Subsection (2) at least one notice per 1,000 population of that area and at places within the area that are most likely to provide actual notice to residents of the area; and

(ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing or the first of the set of hearings; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.

(2) Each published notice under Subsection (1)(a)(i)(A) shall:

(a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;

(b) if possible, appear in a newspaper that is published at least one day per week;

(c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;

(d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and

(e) be published once each week for four consecutive weeks, with the final publication being no fewer than five and no more than 20 days before the hearing or the first of the set of hearings.

(3) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

(4) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Amended by Chapter 265, 2013 General Session

17B-1-212. Resolution indicating whether the requested service will be provided.

(1) Within 60 days after the last hearing required under Section 17B-1-210 concerning a request, the legislative body of each county whose unincorporated area includes and the legislative body of each municipality whose boundaries include any part of the proposed local district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed local district within its boundaries the service proposed to be provided by the proposed local district.

(2) If the legislative body of a county or municipality fails to adopt a resolution within the time provided under Subsection (1), the county or municipal legislative body shall be considered to have declined to provide the service requested.

(3) If the county or municipality adopts a resolution under Subsection (1) indicating that it will provide the requested service but does not, within 120 days after the adoption of that resolution, take substantial measures to provide the requested service, the county or municipal legislative body shall be considered to have declined to provide the requested service.

(4) Each county or municipality that adopts a resolution under Subsection (1) indicating that it will provide the requested service shall diligently proceed to take all measures necessary to provide the service.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

(1) For purposes of this section, "adequate protests" means protests that are:
(a) filed with the county clerk, municipal clerk or recorder, or local district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and

(b) signed by:
(i) the owners of private real property that:
(A) is located within the proposed local district;
(B) covers at least 25% of the total private land area within the applicable area;
and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

(3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect

to the applicable area;

(ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

(4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.

(5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), or (f), a resolution approving the creation of the local district may be adopted by:

(i) (A) the legislative body of a county whose unincorporated area is included within the proposed local district; and

(B) the legislative body of a municipality whose area is included within the proposed local district; or

(ii) the board of trustees of the initiating local district.

(b) Each resolution adopted under Subsection (5)(a) shall:

(i) describe the area included in the local district;

(ii) be accompanied by a map that shows the boundaries of the local district;

(iii) describe the service to be provided by the local district;

(iv) state the name of the local district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

Amended by Chapter 265, 2013 General Session

17B-1-214. Election -- Exceptions.

(1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the question of whether the local district should be created shall be held by:

(i) if the proposed local district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or

regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed local district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area;

(d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district includes the unincorporated area, whether in whole or in part, of one or more counties;

(e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution proposes the creation of a local district that has no registered voters within its boundaries; or

(f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii).

(4) (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Amended by Chapter 70, 2013 General Session

Amended by Chapter 265, 2013 General Session

17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Local district incorporated as specialized local district or basic local district -- Effective date.

(1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:

(i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed local district as a whole vote in favor of the creation of a local district;

(ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or

(iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a local district for which an election was not required under Subsection 17B-1-214(3)(d), (e), or (f), by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed local district, or by the board of trustees of the initiating local district.

(2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:

(a) if the local district is located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; and

(ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or

(b) if the local district is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C);

and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).

(3) The area of each local district consists of:

(a) if an election was held under Section 17B-1-214, the area of the new local district as approved at the election;

(b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), the area of the proposed local district as described in the petition; or

(c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), or (f), the area of the new local district as described in the resolution adopted under Subsection 17B-1-213(5).

(4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the local district is created and incorporated as:

(i) the type of specialized local district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), or (c) or resolution under Subsection 17B-1-203(1)(d) or (e), if the petition or resolution proposed the creation of a specialized local district; or

(ii) a basic local district, if the petition or resolution did not propose the creation of a specialized local district.

(b) (i) The effective date of a local district's incorporation for purposes of assessing property within the local district is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated local district may not:

(A) levy or collect a property tax on property within the local district;

(B) levy or collect an assessment on property within the local district; or

(C) charge or collect a fee for service provided to property within the local district.

Amended by Chapter 265, 2013 General Session

17B-1-216. Costs and expenses of creating a local district.

(1) Except as provided in Subsection (2), each county whose unincorporated area includes and each municipality whose boundaries include some or all of the proposed local district shall bear their respective costs and expenses associated with the procedure under this part for creating a local district.

(2) Within a year after its creation, each local district shall reimburse the costs and expenses associated with the preparation, certification, and recording of the approved final local entity plat of the local district and accompanying documents under Section 17B-1-215.

Amended by Chapter 350, 2009 General Session

17B-1-217. Activity required -- Dissolution -- Conclusive presumption regarding creation and existence.

(1) A local district that is not engaged in one or more of the following activities, services, or duties is subject to dissolution in accordance with Subsections (5) and (6):

(a) levying and collecting a tax;

(b) providing a commodity or service;

(c) collecting a fee or charging an assessment for a commodity, service, facility, or improvement provided by the local district;

(d) undertaking planning necessary for the provision of a commodity, service, facility, or improvement as reflected in a written study or report;

(e) acquiring or maintaining property or an easement necessary for a service, facility, or improvement to be provided by the local district in accordance with a general or master plan adopted by the district;

(f) constructing, installing, maintaining, owning, or operating infrastructure for the provision of a commodity, service, facility, or improvement; or

(g) legally incurring debt, contracting, or otherwise being obligated to provide a commodity, service, facility, or improvement within a reasonable period of time.

(2) For a local district created after May 14, 2013, the local district shall file with the state auditor a written certification:

(a) declaring that the district is engaged in an activity, service, or duty described in Subsection (1);

(b) identifying the activity in which the local district is engaged; and

(c) no later than five years after the date on which a local district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5.

(3) (a) The state auditor shall send a deficiency notice in accordance with Subsection (3)(c) if:

(i) a local district fails to deliver a certification in accordance with Subsection (2); or

(ii) the state auditor determines that, subject to Subsection (3)(b), a local district created after January 1, 2005, and before May 15, 2013, is not engaged in an activity, service, or duty required under Subsection (1) within five years after the date on which the local district is created as reflected in the certificate of incorporation issued by the lieutenant governor under Section 67-1a-6.5 or thereafter.

(b) The state auditor shall make a determination described in Subsection (3)(a)(ii) based on:

(i) the local district's failure to file a required annual financial report with the state auditor in accordance with Section 17B-1-639; or

(ii) subject to Subsection (7), other credible information related to Subsection (1).

(c) (i) The state auditor shall send the deficiency notice to the local district and the Utah Association of Special Districts.

(ii) The deficiency notice shall state that the local district is required to file with the state auditor a written certification:

(A) declaring that the district was and continues to be engaged in an activity, service, or duty described in Subsection (1) prior to the date of the deficiency notice; and

(B) identifying the activity, service, or duty in which the local district is engaged.

(4) If within four months of receiving a deficiency notice, a local district fails to file a written certification with the state auditor in accordance with Subsection (2) or (3)(c)(ii), the state auditor shall, in writing:

(a) notify the lieutenant governor that the local district has failed to meet the requirements of this section and specify the reason for the district's failure; and

(b) request that the lieutenant governor dissolve the local district in accordance with Subsections (5) and (6).

(5) If the lieutenant governor receives a request to dissolve a local district from

the state auditor in accordance with Subsection (4), the lieutenant governor shall:

- (a) issue a certification of dissolution under Section 67-1a-6.5; and
- (b) send a copy of the certification of dissolution to:
 - (i) the state auditor;
 - (ii) the State Tax Commission;
 - (iii) the recorder of the county in which the local district is located, or, if the local district is located in more than one county, the recorder of each county in which the local district is located;
 - (iv) the last known address of the local district; and
 - (v) the Utah Association of Special Districts.
- (6) A local district identified in a certification of dissolution is dissolved:
 - (a) upon recordation of the certification by the county recorder; or
 - (b) if the local district is located within more than one county, upon recordation of the certification by the county recorder of the last county to record.
- (7) Notwithstanding any other provision of law, a local district shall be conclusively presumed to have been lawfully created, existing, and active if for two years following the district's creation under Subsection 17B-1-215(4):
 - (a) the district has:
 - (i) levied and collected a tax; or
 - (ii) collected a fee, charge, or assessment for a commodity, service, facility, or improvement provided by the district; and
 - (b) no challenge has been filed in court to the existence or creation of the district.

Amended by Chapter 448, 2013 General Session

17B-1-301. Board of trustees duties and powers.

- (1) (a) Each local district shall be governed by a board of trustees which shall manage and conduct the business and affairs of the district and shall determine all questions of district policy.
- (b) All powers of a local district are exercised through the board of trustees.
- (2) The board of trustees may:
 - (a) fix the location of the local district's principal place of business and the location of all offices and departments, if any;
 - (b) fix the times of meetings of the board of trustees;
 - (c) select and use an official district seal;
 - (d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the local district and its properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;
 - (e) require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;
 - (f) contract for or employ professionals to perform work or services for the local district that cannot satisfactorily be performed by the officers or employees of the

district;

(g) through counsel, prosecute on behalf of or defend the local district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

(i) adopt and enforce rules and regulations for the orderly operation of the local district or for carrying out the district's purposes;

(j) prescribe a system of civil service for district employees;

(k) on behalf of the local district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the local district;

(m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the local district and its properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the local district board is elected, the period of time that:

(A) begins on the day on which a municipal general election described in Section 17B-1-306 is held to elect a local district board member; and

(B) ends on the day on which the local district board member-elect begins the member's term; or

(ii) if any member of the local district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the person who is appointed by the local district board to fill the vacancy begins the person's term.

(b) (i) The local district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the local district may hire an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new local district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected local district board members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the local district board; and

(ii) all the appointed local district board members who were appointed whose term of appointment was expiring are re-appointed to the local district board.

(4) A local district board that hires an interim manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, or similar position.

Amended by Chapter 209, 2011 General Session

17B-1-302. Board member qualifications -- Number of board members.

(1) (a) Each member of a local district board of trustees shall be:

(i) a registered voter at the location of the member's residence; and

(ii) except as provided in Subsections (1)(b) and (c), a resident within:

(A) the boundaries of the local district; and

(B) if applicable, the boundaries of the division of the local district from which the member is elected.

(b) (i) As used in this Subsection (1)(b):

(A) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(B) "Seasonally occupied home" means a single-family residence:

(I) that is located within the local district;

(II) that receives service from the local district; and

(III) whose owner:

(Aa) does not reside permanently at the residence; and

(Bb) may occupy the residence on a temporary or seasonal basis.

(ii) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(a)(ii) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(A) receives service from the district; and

(B) is located within:

(I) the local district; and

(II) if applicable, the division from which the member is elected.

(c) For a board of trustees member in a basic local district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(a)(ii) is replaced with the requirement that the member be an owner of land within the local district that receives service from the district, or an agent or officer of the owner.

(2) Except as otherwise provided by statute, the number of members of each board of trustees of a local district shall be an odd number that is no less than three.

(3) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(4) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (4)(a) may:

(i) violate Subsection (2); or

(ii) serve to shorten the term of any member of the board.

Amended by Chapter 68, 2011 General Session

17B-1-303. Term of board of trustees members -- Oath of office -- Bond.

(1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member appointed by the governor as provided in Subsection 17B-2a-1005(2)(c) shall begin on the date on which the senate consents to the appointment.

(2) (a) (i) Subject to Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

Amended by Chapter 448, 2013 General Session

17B-1-304. Appointment procedures for appointed members.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a local district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new local district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

- (ii) the qualifications required to be appointed to those positions;
 - (iii) the procedures for appointment that the governing body will follow in making those appointments; and
 - (iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.
- (b) The appointing authority shall:
- (i) post the notice of vacancy in four public places within the local district at least one month before the deadline for accepting nominees for appointment; and
 - (ii) (A) publish the notice of vacancy:
 - (I) in a daily newspaper of general circulation within the local district for five consecutive days before the deadline for accepting nominees for appointment; or
 - (II) in a local weekly newspaper circulated within the local district in the week before the deadline for accepting nominees for appointment; and
 - (B) in accordance with Section 45-1-101 for five days before the deadline for accepting nominees for appointment.
- (c) The appointing authority may bill the local district for the cost of preparing, printing, and publishing the notice.
- (3) (a) Not sooner than two months after the appointing authority is notified of the vacancy, the appointing authority shall select a person to fill the vacancy from the applicants who meet the qualifications established by law.
- (b) The appointing authority shall:
- (i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;
 - (ii) allow any interested persons to be heard; and
 - (iii) adopt a resolution appointing a person to the local district board.
- (c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.
- (4) Persons appointed to serve as members of the local district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.
- (5) (a) At the end of each board member's term, the position is considered vacant and the appointing authority may either reappoint the old board member or appoint a new member after following the appointment procedures established in this section.
- (b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is duly elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).
- (6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members, it need not comply with Subsection (2) or (3).

Amended by Chapter 448, 2013 General Session

17B-1-305. Notice of offices to be filled.

On or before February 1 of each municipal election year, the board of each local district shall prepare and transmit to the clerk of each county in which any part of the

district is located a written notice that:

- (1) designates the offices to be filled at that year's municipal general election;
- and
- (2) identifies the dates for filing a declaration of candidacy for those offices.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (11), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

- (i) at the same time as the municipal general election; and
- (ii) at polling places designated by the county clerk in consultation with the local district for each county in which the local district is located, which polling places shall coincide with municipal general election polling places whenever feasible.

(b) The county clerk may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (4)(f) and (g), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each local district with a board member position to be filled at the next municipal general election shall provide notice of:

(i) each elective position of the local district to be filled at the next municipal general election;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) The notice required under Subsection (3)(a) shall be:

(i) posted in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) (A) published in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy; and

(B) published, in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy.

(4) (a) To become a candidate for an elective local district board position, the prospective candidate shall file a declaration of candidacy in person with the local district, during office hours and not later than the close of normal office hours between June 1 and June 7 of any odd-numbered year.

(b) When June 7 is a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) (i) Before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory

qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy.

(iii) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall accept the declaration of candidacy.

(d) The declaration of candidacy shall substantially comply with the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, State of Utah, (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)"

(e) Each person wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(f) If at least one person does not file a declaration of candidacy as required by this section, a person shall be appointed to fill that board position by following the procedures and requirements for appointment established in Section 20A-1-512.

(g) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(5) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election, as provided for in Section 20A-1-201.5; and

(ii) according to the procedures for municipal primary elections provided under Title 20A, Election Code.

(6) (a) Except as provided in Subsection (6)(c), the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located no later than June 12 of the municipal election year.

(b) (i) Except as provided in Subsection (6)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located shall coordinate the placement of the name of each candidate for local district office in the nonpartisan

section of the municipal general election ballot with the municipal election clerk.

(ii) If consolidation of the local district election ballot with the municipal general election ballot is not feasible, the county clerk shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(7) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(8) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(9) (a) A person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(11) This section does not apply to an improvement district that provides electric or gas service.

(12) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

Amended by Chapter 402, 2013 General Session

Amended by Chapter 448, 2013 General Session

17B-1-306.5. Dividing a local district into divisions.

(1) Subject to Subsection (2), the board of trustees of a local district may, upon a vote of two-thirds of the members of the board, divide the local district into divisions so that some or all of the members of the board of trustees may be elected by division rather than at large.

(2) Before dividing a local district into divisions under Subsection (1) or before

changing the boundaries of divisions already established, the board of trustees shall:

(a) prepare a proposal that describes the boundaries of the proposed divisions; and

(b) hold a public hearing at which any interested person may appear and speak for or against the proposal.

(3) (a) The board of trustees shall review the division boundaries at least every 10 years.

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the local district, the boundaries of divisions established under Subsection (1) may not be changed more often than every five years.

(c) Changes to the boundaries of divisions already established under Subsection (1) are not subject to the two-thirds vote requirement of Subsection (1).

Renumbered and Amended by Chapter 360, 2008 General Session

17B-1-307. Annual compensation -- Per diem compensation -- Participation in group insurance plan -- Reimbursement of expenses.

(1) (a) Except as provided in Subsection 17B-1-308(1)(e), a member of a board of trustees may receive compensation for service on the board, as determined by the board of trustees.

(b) The amount of compensation under this Subsection (1) may not exceed \$5,000 per year.

(c) (i) As determined by the board of trustees, a member of the board of trustees may participate in a group insurance plan provided to employees of the local district on the same basis as employees of the local district.

(ii) The amount that the local district pays to provide a member with coverage under a group insurance plan shall be included as part of the member's compensation for purposes of Subsection (1)(b).

(d) The amount that a local district pays employer-matching employment taxes, if a member of the board of trustees is treated as an employee for federal tax purposes, does not constitute compensation under Subsection (1).

(2) In addition to the compensation provided under Subsection (1), the board of trustees may elect to allow a member to receive per diem and travel expenses for up to 12 meetings or activities per year in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 448, 2013 General Session

17B-1-308. Boards of trustees comprised of county or municipal legislative body members.

(1) If a county or municipal legislative body by statute also serves as the board of trustees of a local district:

(a) the board of trustees shall hold district meetings and keep district minutes,

accounts, and other records separate from those of the county or municipality;

(b) subject to Subsection (2), the board of trustees may use, respectively, existing county or municipal facilities and personnel for district purposes;

(c) notwithstanding Subsections 17B-1-303(1) and (2), the term of office of each board of trustees member coincides with the member's term as a county or municipal legislative body member;

(d) each board of trustees member represents the district at large; and

(e) board members may not receive compensation for their service as board members in addition to compensation they receive as members of a county or municipal legislative body.

(2) The county or municipal legislative body, as the case may be, shall charge the local district, and the local district shall pay to the county or municipality, a reasonable amount for:

(a) the county or municipal facilities that the district uses; and

(b) except for services rendered by the county or municipal legislative body members, the services that the county or municipality renders to the local district.

Enacted by Chapter 329, 2007 General Session

17B-1-309. Board officers -- Term.

(1) (a) The board of trustees shall elect from their number a chair and may elect other officers as the board considers appropriate.

(b) The offices of treasurer and clerk may not be held by the same person.

(2) Each officer serves at the pleasure of the board of trustees, but the board may designate a set term for officers.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-310. Quorum of board of trustees -- Meetings of the board.

(1) (a) (i) Except as provided in Subsection (1)(b), a majority of the board of trustees constitutes a quorum for the transaction of board business, and action by a majority of a quorum constitutes action of the board.

(ii) Except as otherwise required by law, an otherwise valid action of the board is not made invalid because of the method chosen by the board to take or memorialize the action.

(b) (i) Subject to Subsection (1)(b)(ii), a board may adopt bylaws or other rules that require more than a majority to constitute a quorum or that require action by more than a majority of a quorum to constitute action by the board.

(ii) A board with five or more members may not adopt bylaws or rules that require a vote of more than two-thirds of the board to constitute board action except for a board action to dispose of real property owned by the local district.

(2) The board of trustees shall hold such regular and special meetings as the board determines at a location that the board determines.

(3) (a) Each meeting of the board of trustees shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) Subject to Subsection (3)(c), a board of trustees shall:

- (i) adopt rules of order and procedure to govern a public meeting of the board of trustees;
- (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (3)(b)(i); and
- (iii) make the rules of order and procedure described in Subsection (3)(b)(i) available to the public:
 - (A) at each meeting of the board of trustees; and
 - (B) on the local district's public website, if available.
- (c) Subsection (3)(b) does not affect the board of trustees' duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 448, 2013 General Session

17B-1-311. Board member prohibited from district employment -- Exception.

- (1) No elected or appointed member of the board of trustees of a local district may, while serving on the board, be employed by the district, whether as an employee or under a contract.
- (2) No person employed by a local district, whether as an employee or under a contract, may serve on the board of that local district.
- (3) A local district is not in violation of a prohibition described in Subsection (1) or (2) if the local district:
 - (a) treats a member of a board of trustees as an employee for income tax purposes; and
 - (b) complies with the compensation limits of Section 17B-1-307 for purposes of that member.
- (4) This section does not apply to a local district if:
 - (a) fewer than 3,000 people live within 40 miles of the primary place of employment, measured over all weather public roads; and
 - (b) with respect to the employment of a board of trustees member under Subsection (1):
 - (i) the job opening has had reasonable public notice; and
 - (ii) the person employed is the best qualified candidate for the position.

Amended by Chapter 448, 2013 General Session

17B-1-312. Training for board members.

- (1) Each member of a board of trustees of a local district, elected or appointed on or after May 3, 1999, should, within one year after taking office, complete the training described in Subsection (2).
- (2) In conjunction with the Utah Association of Special Districts, the state auditor shall:
 - (a) develop a training curriculum for the members of local district boards; and
 - (b) with the assistance of other state offices and departments the state auditor considers appropriate and at times and locations established by the state auditor, carry out the training of members of local district boards.

(3) (a) A local district board of trustees may compensate each member of the board up to \$100 per day for each day of training described in Subsection (2) that the member completes.

(b) The per diem amount authorized under Subsection (3)(a) is in addition to all other amounts of compensation and expense reimbursement authorized under this chapter.

(c) A board of trustees may not pay compensation under Subsection (3)(a) to any board member more than once per year.

(4) The state auditor shall issue a certificate of completion to each board member that completes the training described in Subsection (2).

Amended by Chapter 360, 2008 General Session

17B-1-313. Publication of notice of board resolution or action -- Contest period -- No contest after contest period.

(1) After the board of trustees of a local district adopts a resolution or takes other action on behalf of the district, the board may provide for the publication of a notice of the resolution or other action.

(2) Each notice under Subsection (1) shall:

(a) include, as the case may be:

(i) the language of the resolution or a summary of the resolution; or

(ii) a description of the action taken by the board;

(b) state that:

(i) any person in interest may file an action in district court to contest the regularity, formality, or legality of the resolution or action within 30 days after the date of publication; and

(ii) if the resolution or action is not contested by filing an action in district court within the 30-day period, no one may contest the regularity, formality, or legality of the resolution or action after the expiration of the 30-day period; and

(c) be published:

(i) in a newspaper that is published or has general circulation in the district; and

(ii) as required in Section 45-1-101.

(3) For a period of 30 days after the date of the publication, any person in interest may contest the regularity, formality, or legality of the resolution or other action by filing an action in district court.

(4) After the expiration of the 30-day period under Subsection (3), no one may contest the regularity, formality, or legality of the resolution or action for any cause.

Amended by Chapter 388, 2009 General Session

17B-1-314. Compelling attendance at board meetings.

The board of trustees of a local district may:

(1) compel the attendance of its own members at its meetings; and

(2) provide penalties it considers necessary for the failure to attend.

Enacted by Chapter 106, 2011 General Session

17B-1-401. Definitions.

For purposes of this part:

(1) "Applicable area" means:

(a) for a county, the unincorporated area of the county that is included within the area proposed for annexation; or

(b) for a municipality, the area of the municipality that is included within the area proposed for annexation.

(2) "Retail" means, with respect to a service provided by a municipality or local district, that the service is provided directly to the ultimate user.

(3) "Wholesale" means, with respect to a service provided by a local district, that the service is not provided directly to the ultimate user but is provided to a retail provider.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-402. Annexation of area outside local district.

(1) An area outside the boundaries of a local district may be annexed to the local district, as provided in this part, in order to provide to the area a service that the local district provides.

(2) The area proposed to be annexed:

(a) may consist of one or more noncontiguous areas; and

(b) need not be adjacent to the boundaries of the proposed annexing local district.

(3) With respect to a local district in the creation of which an election was not required under Subsection 17B-1-214(3)(d):

(a) an unincorporated area of a county may not be annexed to the local district unless, after annexation, at least a majority of the unincorporated area of the county will be included in the local district; and

(b) the annexation of any part of an area within a municipality shall include all of the area within the municipality.

(4) A local district may not annex an area located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, without the authority's approval.

Amended by Chapter 68, 2011 General Session

17B-1-403. Initiation of annexation process -- Petition and resolution.

(1) Except as provided in Sections 17B-1-415, 17B-1-416, and 17B-1-417, the process to annex an area to a local district may be initiated by:

(a) (i) for a district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector and subject to Subsection (2), a petition signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation; or

(ii) for all other districts:

(A) a petition signed by:

- (I) the owners of private real property that:
 - (Aa) is located within the area proposed to be annexed;
 - (Bb) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and
 - (Cc) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or
- (II) the owner of all the publicly owned real property, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government; or
- (B) a petition signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;
 - (b) a resolution adopted by the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the area proposed to be annexed; or
 - (c) a resolution adopted by the board of trustees of the proposed annexing local district if, for at least 12 consecutive months immediately preceding adoption of the resolution, the local district has provided:
 - (i) retail service to the area; or
 - (ii) a wholesale service to a provider of the same service that has provided that service on a retail basis to the area.
- (2) If an association representing all acre-feet of water allotted to the land that is proposed to be annexed to a local district signs a petition under Subsection (1)(a)(i), pursuant to a proper exercise of authority as provided in the bylaws or other rules governing the association, the petition shall be considered to have been signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation, even though less than all of the owners within the association consented to the association signing the petition.
- (3) Each petition and resolution under Subsection (1) shall:
 - (a) describe the area proposed to be annexed; and
 - (b) be accompanied by a map of the boundaries of the area proposed to be annexed.
- (4) The legislative body of each county and municipality that adopts a resolution under Subsection (1)(b) shall, within five days after adopting the resolution, mail or deliver a copy of the resolution to the board of trustees of the proposed annexing local district.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-404. Petition requirements.

- (1) Each petition under Subsection 17B-1-403(1)(a) shall:
 - (a) indicate the typed or printed name and current residence address of each person signing the petition;

(b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the area proposed for annexation are grouped separately;

(c) if it is a petition under Subsection 17B-1-403(1)(a)(i) or (ii)(A), indicate the address of the property as to which the owner is signing the petition;

(d) designate up to three signers of the petition as sponsors, one of whom shall be designated the contact sponsor, with the mailing address and telephone number of each;

(e) be filed with the board of trustees of the proposed annexing local district; and

(f) for a petition under Subsection 17B-1-403(1)(a)(i), state the proposed method of supplying water to the area proposed to be annexed.

(2) By submitting a written withdrawal or reinstatement with the board of trustees of the proposed annexing local district, a signer of a petition may withdraw, or once withdrawn, reinstate the signer's signature at any time:

(a) before the public hearing under Section 17B-1-409 is held; or

(b) if a hearing is not held because of Subsection 17B-1-413(1) or because no hearing is requested under Subsection 17B-1-413(2)(a)(ii)(B), until 20 days after the local district provides notice under Subsection 17B-1-413(2)(a)(i).

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-405. Petition certification.

(1) Within 30 days after the filing of a petition under Subsection 17B-1-403(1)(a)(i) or (ii) or within the time that the local district and each petition sponsor designate by written agreement, the board of trustees of the proposed annexing local district shall:

(a) with the assistance of officers of the county in which the area proposed to be annexed is located from whom the board requests assistance, determine whether the petition meets the requirements of Subsection 17B-1-403(1)(a)(i) or (ii), as the case may be, Subsection 17B-1-403(3), and Subsection 17B-1-404(1); and

(b) (i) if the board determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the board determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the board rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (2)(a).

(3) The board shall process an amended petition filed under Subsection (2)(a) in the same manner as an original petition under Subsection (1).

Amended by Chapter 350, 2009 General Session

17B-1-406. Notice to county and municipality -- Exception.

(1) Except as provided in Subsection (2), within 10 days after certifying a petition under Subsection 17B-1-405(1)(b) the board of trustees of the proposed annexing local district shall mail or deliver a written notice of the proposed annexation, with a copy of the certification and a copy of the petition, to the legislative body of each:

(a) county in whose unincorporated area any part of the area proposed for annexation is located; and

(b) municipality in which any part of the area proposed for annexation is located.

(2) The board is not required to send a notice under Subsection (1) to:

(a) a county or municipality that does not provide the service proposed to be provided by the local district; or

(b) a county or municipality whose legislative body has adopted an ordinance or resolution waiving the notice requirement as to:

(i) the proposed annexing local district; or

(ii) the service that the proposed annexing local district provides.

(3) For purposes of this section, an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of the filing of a petition under Subsection 17B-1-403(1)(a) and an area included within a municipality's annexation policy plan under Section 10-2-401.5 shall be considered to be part of that municipality.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-407. Notice of intent to consider providing service -- Public hearing requirements.

(1) (a) If the legislative body of a county or municipality whose applicable area is proposed to be annexed to a local district in a petition under Subsection 17B-1-403(1)(a) intends to consider having the county or municipality, respectively, provide to the applicable area the service that the proposed annexing local district provides, the legislative body shall, within 30 days after receiving the notice under Subsection 17B-1-406(1), mail or deliver a written notice to the board of trustees of the proposed annexing local district indicating that intent.

(b) (i) A notice of intent under Subsection (1)(a) suspends the local district's annexation proceeding as to the applicable area of the county or municipality that submits the notice of intent until the county or municipality:

(A) adopts a resolution under Subsection 17B-1-408(1) declining to provide the service proposed to be provided by the proposed annexing local district; or

(B) is considered under Subsection 17B-1-408(2) or (3) to have declined to provide the service.

(ii) The suspension of an annexation proceeding under Subsection (1)(b)(i) as to an applicable area does not prevent the local district from continuing to pursue the annexation proceeding with respect to other applicable areas for which no notice of intent was submitted.

(c) If a legislative body does not mail or deliver a notice of intent within the time required under Subsection (1)(a), the legislative body shall be considered to have declined to provide the service.

(2) Each legislative body that mails or delivers a notice under Subsection (1)(a) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the area proposed for annexation need travel an unreasonable distance to attend a public hearing.

(3) Each public hearing under Subsection (2) shall be held:

(a) no later than 45 days after the legislative body sends notice under Subsection (1);

(b) except as provided in Subsections (6) and (7), within the applicable area; and

(c) for the purpose of allowing public input on:

(i) whether the service is needed in the area proposed for annexation;

(ii) whether the service should be provided by the county or municipality or the proposed annexing local district; and

(iii) all other matters relating to the issue of providing the service or the proposed annexation.

(4) A quorum of the legislative body of each county or municipal legislative body holding a public hearing under this section shall be present throughout each hearing held by that county or municipal legislative body.

(5) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (3)(b), are met as to each hearing.

(7) Notwithstanding Subsection (3)(b), a county or municipal legislative body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

(8) Before holding a public hearing or set of public hearings under this section, the legislative body of each county or municipality that receives a request for service shall provide notice of the hearing or set of hearings as provided in Section 17B-1-211.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-408. Resolution indicating whether the requested service will be provided.

(1) Within 30 days after the last hearing required under Section 17B-1-407 is held, the legislative body of each county and municipality that sent a notice of intent under Subsection 17B-1-407(1) shall adopt a resolution indicating whether the county or municipality will provide to the area proposed for annexation within its boundaries the service proposed to be provided by the proposed annexing local district.

(2) If the county or municipal legislative body fails to adopt a resolution within the time provided under Subsection (1), the county or municipality shall be considered to have declined to provide the service.

(3) If a county or municipal legislative body adopts a resolution under

Subsection (1) indicating that the county or municipality will provide the service but the county or municipality does not, within 120 days after the adoption of that resolution, take substantial measures to provide the service, the county or municipality shall be considered to have declined to provide the service.

(4) Each county or municipality whose legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service shall diligently proceed to take all measures necessary to provide the service.

(5) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service and the county or municipality takes substantial measures within the time provided in Subsection (3) to provide the service, the local district's annexation proceeding as to the applicable area of that county or municipality is terminated and that applicable area is considered deleted from the area proposed to be annexed in a petition under Subsection 17B-1-403(1)(a).

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-409. Public hearing on proposed annexation.

(1) Except as provided in Sections 17B-1-413 and 17B-1-415, the board of trustees of each local district that certifies a petition that was filed under Subsection 17B-1-403(1)(a)(ii)(A) or (B), receives a resolution adopted under Subsection 17B-1-403(1)(b), or adopts a resolution under Subsection 17B-1-403(1)(c) shall hold a public hearing on the proposed annexation and provide notice of the hearing as provided in Section 17B-1-410.

(2) Each public hearing under Subsection (1) shall be held:

(a) within 45 days after:

(i) if no notice to a county or municipal legislative body is required under Section 17B-1-406, petition certification under Section 17B-1-405; or

(ii) if notice is required under Section 17B-1-406, but no notice of intent is submitted by the deadline:

(A) expiration of the deadline under Subsection 17B-1-407(1) to submit a notice of intent; or

(B) termination of a suspension of the annexation proceeding under Subsection 17B-1-407(1)(b);

(b) (i) for a local district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be annexed; or

(B) at the local district office; or

(ii) for a local district located in more than one county:

(A) (I) within the county in which the area proposed to be annexed is located;

and

(II) within or as close as practicable to the area proposed to be annexed; or

(B) if the local district office is reasonably accessible to all residents within the area proposed to be annexed, at the local district office;

(c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.;

and

(d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed annexation and issues raised by it; and

(ii) any interested person to address the board regarding the proposed annexation.

(3) A quorum of the board of trustees of the proposed annexing local district shall be present throughout each public hearing held under this section.

(4) (a) After holding a public hearing under this section or, if no hearing is held because of application of Subsection 17B-1-413(2)(a)(ii), after expiration of the time under Subsection 17B-1-413(2)(a)(ii)(B) for requesting a hearing, the board of trustees may by resolution deny the annexation and terminate the annexation procedure if:

(i) for a proposed annexation initiated by a petition under Subsection 17B-1-403(1)(a)(i) or (ii), the board determines that:

(A) it is not feasible for the local district to provide service to the area proposed to be annexed; or

(B) annexing the area proposed to be annexed would be inequitable to the owners of real property or residents already within the local district; or

(ii) for a proposed annexation initiated by resolution under Subsection 17B-1-403(1)(b) or (c), the board determines not to pursue annexation.

(b) In each resolution adopted under Subsection (4)(a), the board shall set forth its reasons for denying the annexation.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-410. Notice of public hearing.

(1) Before holding a public hearing required under Section 17B-1-409, the board of trustees of each proposed annexing local district shall:

(a) mail notice of the public hearing and the proposed annexation to:

(i) if the local district is funded predominantly by revenues from a property tax, each owner of private real property located within the area proposed to be annexed, as shown upon the county assessment roll last equalized as of the previous December 31; or

(ii) if the local district is not funded predominantly by revenues from a property tax, each registered voter residing within the area proposed to be annexed, as determined by the voter registration list maintained by the county clerk as of a date selected by the board of trustees that is at least 20 but not more than 60 days before the public hearing; and

(b) post notice of the public hearing and the proposed annexation in at least four conspicuous places within the area proposed to be annexed, no less than 10 and no more than 30 days before the public hearing.

(2) Each notice required under Subsection (1) shall:

(a) describe the area proposed to be annexed;

(b) identify the proposed annexing local district;

(c) state the date, time, and location of the public hearing;

(d) provide a local district telephone number where additional information about the proposed annexation may be obtained;

(e) specify the estimated financial impact, in terms of taxes and fees, upon the

typical resident and upon the typical property owner within the area proposed to be annexed if the proposed annexation is completed; and

(f) except for a proposed annexation under a petition that meets the requirements of Subsection 17B-1-413(1), explain that property owners and registered voters within the area proposed to be annexed may protest the annexation by filing a written protest with the local district board of trustees within 30 days after the public hearing.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-411. Modifications to area proposed for annexation -- Limitations.

(1) (a) Subject to Subsections (2), (3), (4), and (5), a board of trustees may, within 30 days after the public hearing under Section 17B-1-409, or, if no public hearing is held, within 30 days after the board provides notice under Subsection 17B-1-413(2)(a)(i), modify the area proposed for annexation to include land not previously included in that area or to exclude land from that area if the modification enhances the feasibility of the proposed annexation.

(b) A modification under Subsection (1)(a) may consist of the exclusion of all the land within an applicable area if:

(i) the entire area proposed to be annexed consists of more than that applicable area;

(ii) sufficient protests under Section 17B-1-412 are filed with respect to that applicable area that an election would have been required under Subsection 17B-1-412(3) if that applicable area were the entire area proposed to be annexed; and

(iii) the other requirements of Subsection (1)(a) are met.

(2) A board of trustees may not add property under Subsection (1) to the area proposed for annexation without the consent of the owner of that property.

(3) Except as provided in Subsection (1)(b), a modification under Subsection (1) may not avoid the requirement for an election under Subsection 17B-1-412(3) if, before the modification, the election was required because of protests filed under Section 17B-1-412.

(4) If the annexation is proposed by a petition under Subsection 17B-1-403(1)(a)(ii)(A) or (B), a modification may not be made unless the requirements of Subsection 17B-1-403(1)(a)(ii)(A) or (B) are met after the modification as to the area proposed to be annexed.

(5) If the petition meets the requirements of Subsection 17B-1-413(1) before a modification under this section but fails to meet those requirements after modification:

(a) the local district board shall give notice as provided in Section 17B-1-410 and hold a public hearing as provided in Section 17B-1-409 on the proposed annexation; and

(b) the petition shall be considered in all respects as one that does not meet the requirements of Subsection 17B-1-413(1).

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-412. Protests -- Election.

(1) (a) An owner of private real property located within or a registered voter residing within an area proposed to be annexed may protest an annexation by filing a written protest with the board of trustees of the proposed annexing local district, except:

- (i) as provided in Section 17B-1-413;
- (ii) for an annexation under Section 17B-1-415; and
- (iii) for an annexation proposed by a local district that receives sales and use tax funds from the counties, cities, and towns within the local district that impose a sales and use tax under Section 59-12-2213.

(b) A protest of a boundary adjustment is not governed by this section but is governed by Section 17B-1-417.

(2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of the public hearing under Section 17B-1-409.

(3) (a) Except as provided in Subsection (4), the local district shall hold an election on the proposed annexation if:

- (i) timely protests are filed by:
 - (A) the owners of private real property that:
 - (I) is located within the area proposed to be annexed;
 - (II) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and
 - (III) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or
 - (B) registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed for annexation and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition; or

(ii) the proposed annexing local district is one that receives sales and use tax funds from the counties, cities, and towns within the local district that impose a sales and use tax under Section 59-12-2213.

(b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be phrased to indicate that a voter's casting a vote for or against the annexation includes also a vote for or against the imposition of the sales and use tax as provided in Section 59-12-2213.

(ii) Except as otherwise provided in this part, each election under Subsection (3)(a) shall be governed by Title 20A, Election Code.

(c) If a majority of registered voters residing within the area proposed to be annexed and voting on the proposal vote:

(i) in favor of annexation, the board of trustees shall, subject to Subsections 17B-1-414(1)(b), (2), and (3), complete the annexation by adopting a resolution approving annexation of the area; or

(ii) against annexation, the annexation process is terminated, the board may not adopt a resolution approving annexation of the area, and the area proposed to be annexed may not for two years be the subject of an effort under this part to annex to the same local district.

(4) If sufficient protests are filed under this section to require an election for a

proposed annexation to which the protest provisions of this section are applicable, a board of trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and terminating the annexation process without holding an election.

Amended by Chapter 263, 2010 General Session

17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

- (1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:
 - (a) if the process to annex an area to a local district was initiated by:
 - (i) a petition under Subsection 17B-1-403(1)(a)(i);
 - (ii) a petition under Subsection 17B-1-403(1)(a)(ii)(A) that was signed by the owners of private real property that:
 - (A) is located within the area proposed to be annexed;
 - (B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and
 - (C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or
 - (iii) a petition under Subsection 17B-1-403(1)(a)(ii)(B) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;
 - (b) to an annexation under Section 17B-1-415; or
 - (c) to a boundary adjustment under Section 17B-1-417.
- (2) (a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the local district board:
 - (i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and
 - (ii) (A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and
 - (B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the local district provides notice under Subsection (2)(a)(i), to the local district board by an owner of property that is located within or a registered voter residing within the area proposed to be annexed who did not sign the annexation petition.
- (b) The notice required under Subsections (2)(a)(i) and (ii) shall:
 - (i) be given:
 - (A) (I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or
 - (II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not

more than 30 days before the public hearing; and

(B) by:

(I) posting written notice at the local district's principal office and in one or more other locations within or proximate to the area proposed to be annexed as are reasonable under the circumstances, considering the number of parcels included in that area, the size of the area, the population of the area, and the contiguousness of the area; and

(II) providing written notice:

(Aa) to at least one newspaper of general circulation, if there is one, within the area proposed to be annexed or to a local media correspondent; and

(Bb) on the Utah Public Notice Website created in Section 63F-1-701; and

(ii) contain a brief explanation of the proposed annexation and include the name of the local district, the service provided by the local district, a description or map of the area proposed to be annexed, a local district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).

(c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Amended by Chapter 90, 2010 General Session

17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.

(1) (a) Subject to Subsection (1)(b), the local district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 30 days after:

(i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

(A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing.

(b) If the local district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(ii) The board shall file the documents listed in Subsection (2)(a)(i) with the

lieutenant governor:

(A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and

(B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a municipal annexation that causes an automatic annexation to a local district under Section 17B-1-416.

(b) For an automatic annexation to a local district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the local district is being automatically annexed to the local district under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4, Annexation.

(c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:

(i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of annexation; and

(III) approved final local entity plat; and

(B) a certified copy of the annexation resolution; or

(ii) if the annexed area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III);

and

(II) a certified copy of the annexation resolution; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution.

(3) (a) As used in this Subsection (3), "fire district annexation" means an annexation under this part of an area located in a county of the first class to a local district:

(i) created to provide fire protection, paramedic, and emergency services; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) An annexation under this part is complete and becomes effective:

(i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

(B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

(ii) upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.

(c) (i) The effective date of a local district annexation for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a local district may not:

- (A) levy or collect a property tax on property within the annexed area;
- (B) levy or collect an assessment on property within the annexed area; or
- (C) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (3)(c)(ii)(C):

- (A) may not be construed to limit a local district's ability before annexation to charge and collect a fee for service provided to property that is outside the local district's boundary; and
- (B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the local district's annexation, with respect to a fee that the local district was charging for service provided to property within the annexed area immediately before the area was annexed to the local district.

Amended by Chapter 68, 2011 General Session

17B-1-415. Annexation of wholesale district through expansion of retail provider -- Annexation of a local district that provides transportation services.

(1) (a) A local district that provides a wholesale service may adopt a resolution approving the annexation of an area outside the local district's boundaries if:

(i) the area is annexed by or otherwise added to, or is added to the retail service area of, a municipality or another local district that:

(A) acquires the wholesale service from the local district and provides it as a retail service;

(B) is, before the annexation or other addition, located at least partly within the local district; and

(C) after the annexation or other addition will provide to the annexed or added area the same retail service that the local district provides as a wholesale service to the municipality or other local district; and

(ii) except as provided in Subsection (2), no part of the area is within the boundaries of another local district that provides the same wholesale service as the proposed annexing local district.

(b) For purposes of this section:

(i) a local district providing public transportation service shall be considered to be providing a wholesale service; and

(ii) a municipality included within the boundaries of the local district providing public transportation service shall be considered to be acquiring that wholesale service from the local district and providing it as a retail service and to be providing that retail service after the annexation or other addition to the annexed or added area, even though the municipality does not in fact provide that service.

(2) Notwithstanding Subsection (1)(a)(ii), an area outside the boundaries of a local district providing a wholesale service and located partly or entirely within the boundaries of another local district that provides the same wholesale service may be annexed to the local district if:

(a) the conditions under Subsection (1)(a)(i) are present; and

(b) the proposed annexing local district and the other local district follow the same procedure as is required for a boundary adjustment under Section 17B-1-417, including both district boards adopting a resolution approving the annexation of the area to the proposed annexing local district and the withdrawal of that area from the other district.

(3) A local district that provides transportation services may adopt a resolution approving the annexation of the area outside of the local district's boundaries if:

(a) the area is within a county that has levied a sales and use tax under Section 59-12-2216; and

(b) the county legislative body has adopted a resolution approving the annexation of the areas outside of the local district.

(4) Upon the adoption of an annexation resolution under this section, the board of the annexing local district shall comply with the requirements of Subsection 17B-1-414(2), and the lieutenant governor shall issue a certificate of annexation and send a copy of notice as provided in Section 67-1a-6.5.

(5) Subsections 17B-1-414(2) and (3) apply to an annexation under this section.

Amended by Chapter 223, 2011 General Session

17B-1-416. Automatic annexation to a district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) An area outside the boundaries of a local district that is annexed to a municipality or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, is automatically annexed to the local district if:

(a) the local district provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service;

(b) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(c) before the municipal annexation or boundary adjustment, the entire municipality that is annexing the area or adding the area by boundary adjustment was included within the local district.

(2) The effective date of an annexation under this section is governed by Subsection 17B-1-414(3)(b).

Amended by Chapter 68, 2011 General Session

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one local district that will be removed from that local district and included within the boundaries of another local district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more local districts having a common boundary and providing the same service on the same wholesale or retail basis may

adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each local district intending to adjust a boundary that is common with another local district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;
(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) (A) publish notice:

(I) (Aa) once a week for two successive weeks in a newspaper of general circulation within the local district; or

(Bb) if there is no newspaper of general circulation within the local district, post notice in at least four conspicuous places within the local district; and

(II) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks; or

(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the local district has adopted a resolution indicating the board's intent to adjust a boundary that the local district has in common with another local district that provides the same service as the local district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a local district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area;

and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The first publication of the notice required under Subsection (3)(a)(iii)(A) shall be within 14 days after the board's adoption of a resolution under Subsection (3)(a)(i).

(d) The boards of trustees of the local districts whose boundaries are being adjusted may jointly:

(i) publish, post, or mail the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution approving the adjustment of the common boundary

unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area;

and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each local district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the local district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the local district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the local district whose boundaries are being adjusted to exclude the affected area.

(b) (i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a local district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;
(B) levy or collect an assessment on property within the affected area; or
(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a local district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the local district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the local district's boundary adjustment, with respect to a fee that the local district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Amended by Chapter 90, 2010 General Session

17B-1-418. Annexed area subject to fees, charges, and taxes.

When an annexation under Section 17B-1-414 or 17B-1-415 or a boundary adjustment under Section 17B-1-417 is complete, the annexed area or the area affected by the boundary adjustment shall be subject to user fees or charges imposed by and property, sales, and other taxes levied by or for the benefit of the local district.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-501. Definition.

As used in this part, "receiving entity" means the entity that will, after the withdrawal of an area from a local district, provide to the withdrawn area the service that the local district previously provided to the area.

Enacted by Chapter 329, 2007 General Session

17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district only as provided in this part.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter 2, Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

- (i) the local district provides:
 - (A) fire protection, paramedic, and emergency services; or
 - (B) law enforcement service;
- (ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and
- (iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) An area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

- (i) the local district provides:
 - (A) fire protection, paramedic, and emergency services; or
 - (B) law enforcement service;
- (ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and
- (iii) the legislative body of the newly incorporated municipality:
 - (A) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and
 - (B) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

Amended by Chapter 141, 2013 General Session

17B-1-503. Withdrawal or boundary adjustment with municipal approval.

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality in the local district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining local districts.

(2) After a boundary adjustment under Subsection (1) is complete, the local district shall provide the same service to any area added to the local district as provided to other areas within the local district and the municipality shall provide the same service that the local district previously provided to any area withdrawn from the local district.

(3) No area within a municipality may be added to the area of a local district under this section if the area is part of a local district that provides the same wholesale or retail service as the first local district.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-504. Initiation of withdrawal process -- Notice of petition.

(1) Except as provided in Section 17B-1-505, the process to withdraw an area from a local district may be initiated:

(a) for a local district funded predominantly by revenues from property taxes or service charges other than those based upon acre-feet of water:

(i) by a petition signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn;

(B) covers at least 51% of the total private land within the area proposed to be withdrawn; and

(C) is equal in taxable value to at least 51% of the taxable value of all private real property within the area proposed to be withdrawn;

(ii) by a petition signed by registered voters residing within the area proposed to be withdrawn equal in number to at least 67% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(iii) by a resolution adopted by the board of trustees of the local district in which the area proposed to be withdrawn is located, which:

(A) states the reasons for withdrawal; and

(B) is accompanied by a general description of the area proposed to be withdrawn; or

(iv) by a resolution to file a petition with the local district to withdraw from the local district all or a specified portion of the area within a municipality or county, adopted by the governing body of a municipality that has within its boundaries an area located within the boundaries of a local district, or by the governing body of a county that has within its boundaries an area located within the boundaries of a local district that is located in more than one county, which petition of the governing body shall be filed with the board of trustees only if a written request to petition the board of trustees to withdraw an area from the local district has been filed with the governing body of the municipality, or county, and the request has been signed by registered voters residing within the boundaries of the area proposed for withdrawal equal in number to at least 51% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(b) for a local district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the owners of at least 67% of the acre-feet of water allotted to the land proposed to be withdrawn; or

(c) for a local district funded predominantly by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the registered voters residing within the entire area proposed to be withdrawn, which area shall be comprised of an entire unincorporated area within the local district or an entire municipality within a local district, or a combination thereof, equal in number to at least 67% of the number of votes cast within

the entire area proposed to be withdrawn for the office of governor at the last regular general election before the filing of the petition.

(2) Prior to soliciting any signatures on a petition under Subsection (1), the sponsors of the petition shall:

(a) notify the local district board with which the petition is intended to be filed that the sponsors will be soliciting signatures for a petition; and

(b) mail a copy of the petition to the local district board.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-505. Withdrawal of municipality in certain districts providing fire protection, paramedic, and emergency services or law enforcement service.

(1) (a) The process to withdraw an area from a local district may be initiated by a resolution adopted by the legislative body of a municipality that is entirely within the boundaries of a local district:

(i) that provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal legislative body shall submit to the board of trustees of the local district written notice of the adoption of the resolution, accompanied by a copy of the resolution.

(2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body shall hold an election at the next municipal general election that is more than 60 days after adoption of the resolution on the question of whether the municipality should withdraw from the local district.

(3) If a majority of those voting on the question of withdrawal at an election held under Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local district.

(4) (a) Within 10 days after the canvass of an election at which a withdrawal under this section is submitted to voters, the municipal legislative body shall send written notice to the board of the local district from which the municipality is proposed to withdraw.

(b) Each notice under Subsection (4)(a) shall:

(i) state the results of the withdrawal election; and

(ii) if the withdrawal was approved by voters, be accompanied by a map or legal description of the area to be withdrawn, adequate for purposes of the county assessor and recorder.

(5) The effective date of a withdrawal under this section is governed by Subsection 17B-1-512(2)(a).

Amended by Chapter 68, 2011 General Session

17B-1-506. Withdrawal petition requirements.

(1) Each petition under Section 17B-1-504 shall:

(a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;

(b) separately group signatures by municipality and, in the case of unincorporated areas, by county;

(c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;

(d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;

(e) state the reasons for withdrawal; and

(f) when the petition is filed with the local district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.

(2) (a) The local district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the local district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the local district within 90 days of receipt. Until funds to cover the expenses are delivered to the local district, the district will have no obligation to proceed with the withdrawal and the time limits on the district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

(b) If there is no agreement between the board of trustees of the local district and the contact sponsor on the amount of expenses that will necessarily be incurred by the local district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(3) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-1-508 by submitting a written withdrawal or reinstatement with the board of trustees of the local district in which the area proposed to be withdrawn is located.

(4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the local district, the board of trustees of the local district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the

board of trustees, the petition shall be presented to and approved by the governing body of the municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the local district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the local district under Subsection 17B-1-504(1)(a)(iv).

(5) (a) After receiving the notice required by Subsection 17B-1-504(2), unless specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

(b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.

(c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's constitutional rights.

Amended by Chapter 297, 2011 General Session

17B-1-507. Withdrawal petition certification -- Amended petition.

(1) Within 30 days after the filing of a petition under Sections 17B-1-504 and 17B-1-506, the board of trustees of the local district in which the area proposed to be withdrawn is located shall:

(a) with the assistance of officers of the county in which the area proposed to be withdrawn is located, determine whether the petition meets the requirements of Sections 17B-1-504 and 17B-1-506; and

(b) (i) if the petition complies with the requirements set forth in Sections 17B-1-504 and 17B-1-506, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the petition fails to comply with any of the requirements set forth in Sections 17B-1-504 and 17B-1-506, reject the petition as insufficient and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the board rejects the petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled within 60 days after notice of the rejection.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement for an amended petition refiled under Subsection (2)(a).

(3) The board of trustees shall process an amended petition refiled under Subsection (2)(a) in the same manner as an original petition under Subsection (1). If an amended petition is rejected for failure to comply with the requirements of Sections 17B-1-504 and 17B-1-506, the board of trustees shall issue a final rejection of the petition for insufficiency and mail or deliver written notice of the final rejection to the contact sponsor.

(4) (a) A signer of a petition for which there has been a final rejection under Subsection (3) for insufficiency may seek judicial review of the board of trustees' final decision to reject the petition as insufficient.

(b) Judicial review under Subsection (4)(a) shall be initiated by filing an action in state district court in the county in which a majority of the area proposed to be withdrawn is located.

(c) The court in which an action is filed under this Subsection (4) may not overturn the board of trustees' decision to reject the petition unless the court finds that:

- (i) the board of trustees' decision was arbitrary or capricious; or
- (ii) the petition materially complies with the requirements set forth in Sections 17B-1-504 and 17B-1-506.

(d) The court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-508. Public hearing -- Quorum of board required to be present.

(1) A public hearing on the proposed withdrawal shall be held by the board of trustees of a local district that:

(a) certifies a petition under Subsection 17B-1-507(1)(b)(i) unless the petition was signed by all of the owners of private land within the area proposed to be withdrawn or all of the registered voters residing within the area proposed to be withdrawn; or

(b) adopts a resolution under Subsection 17B-1-504(1)(a)(iii).

(2) The public hearing required by Subsection (1) for a petition certified by the board of trustees of a local district under Subsection 17B-1-507(1)(b)(i), other than a petition filed in accordance with Subsection 17B-1-504(1)(a)(iv), may be held as an agenda item of a meeting of the board of trustees of the local district without complying with the requirements of Subsection (3)(b), (3)(c), or Section 17B-1-509.

(3) Except as provided in Subsection (2), the public hearing required by Subsection (1) shall be held:

(a) no later than 90 days after:

(i) certification of the petition under Subsection 17B-1-507(1)(b)(i); or

(ii) adoption of a resolution under Subsection 17B-1-504(1)(a)(iii);

(b) (i) for a local district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be withdrawn; or

(B) at the local district office; or

(ii) for a local district located in more than one county:

(A) (I) within the county in which the area proposed to be withdrawn is located;

and

(II) within or as close as practicable to the area proposed to be withdrawn; or

(B) if the local district office is reasonably accessible to all residents within the area proposed to be annexed, at the local district office;

(c) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.; and

(d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed withdrawal and issues raised by it; and

(ii) any interested person to address the board of trustees concerning the

proposed withdrawal.

(4) A quorum of the board of trustees of the local district shall be present throughout the public hearing provided for under this section.

(5) A public hearing under this section may be postponed or continued to a new time, date, and place without further notice by a resolution of the board of trustees adopted at the public hearing held at the time, date, and place specified in the published notice; provided, however, that the public hearing may not be postponed or continued to a date later than 15 days after the 90-day period under Subsection (3).

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-509. Notice of hearing and withdrawal.

(1) Unless it is held as an agenda item of a meeting of the board of trustees of a local district as allowed by Subsection 17B-1-508(2), before holding a public hearing under Section 17B-1-508, the board of trustees of the local district shall:

(a) mail notice of the public hearing and of the proposed withdrawal to:

(i) if the local district is funded predominantly by revenues from a property tax, each owner of private real property located within the area proposed to be withdrawn, as shown upon the county assessment roll last equalized as of the previous December 31;

(ii) if the local district is funded by fees based upon an allotment of acre-feet of water, each owner of private real property with an allotment of water located within the area proposed to be withdrawn, as shown upon the district's records; or

(iii) if the local district is not funded predominantly by revenues from a property tax or fees based upon an allotment of acre-feet of water, each registered voter residing within the area proposed to be withdrawn, as determined by the voter registration list maintained by the county clerk as of a date selected by the board of trustees that is at least 20 but not more than 60 days before the public hearing; and

(b) post notice of the public hearing and of the proposed withdrawal in at least four conspicuous places within the area proposed to be withdrawn, no less than five nor more than 30 days before the public hearing.

(2) Each notice required under Subsection (1) shall:

(a) describe the area proposed to be withdrawn;

(b) identify the local district in which the area proposed to be withdrawn is located;

(c) state the date, time, and location of the public hearing;

(d) state that the petition or resolution may be examined during specified times and at a specified place in the local district; and

(e) state that any person interested in presenting comments or other information for or against the petition or resolution may:

(i) prior to the hearing, submit relevant comments and other information in writing to the board of trustees at a specified address in the local district; or

(ii) at the hearing, present relevant comments and other information in writing and may also present comments and information orally.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-510. Resolution approving or rejecting withdrawal -- Criteria for approval or rejection -- Terms and conditions.

(1) (a) On or before the date of the board meeting next following the public hearing under Section 17B-1-508, but in no case later than 90 days after the public hearing or, if no hearing is held, within 90 days after the filing of a petition under Section 17B-1-504, the board of trustees of the local district in which the area proposed to be withdrawn is located shall adopt a resolution:

- (i) approving the withdrawal of some or all of the area from the local district; or
- (ii) rejecting the withdrawal.

(b) Each resolution approving a withdrawal shall:

- (i) include a legal description of the area proposed to be withdrawn;
- (ii) state the effective date of the withdrawal; and
- (iii) set forth the terms and conditions under Subsection (5), if any, of the withdrawal.

(c) Each resolution rejecting a withdrawal shall include a detailed explanation of the board of trustees' reasons for the rejection.

(2) Unless denial of the petition is required under Subsection (3), the board of trustees shall adopt a resolution approving the withdrawal of some or all of the area from the local district if the board of trustees determines that:

(a) the area to be withdrawn does not and will not require the service that the local district provides;

(b) the local district will not be able to provide service to the area to be withdrawn for the reasonably foreseeable future; or

(c) the area to be withdrawn has obtained the same service that is provided by the local district or a commitment to provide the same service that is provided by the local district from another source.

(3) The board of trustees shall adopt a resolution denying the withdrawal if it determines that the proposed withdrawal would:

(a) result in a breach or default by the local district under:

- (i) any of its notes, bonds, or other debt or revenue obligations;
- (ii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the local district; or
- (iii) any of its agreements with the United States or any agency of the United States; provided, however, that, if the local district has entered into an agreement with the United States that requires the consent of the United States for a withdrawal of territory from the district, a withdrawal under this part may occur if the written consent of the United States is obtained and filed with the board of trustees;

(b) adversely affect the ability of the local district to make any payments or perform any other material obligations under:

(i) any of its agreements with the United States or any agency of the United States;

(ii) any of its notes, bonds, or other debt or revenue obligations; or

(iii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the local district;

(c) result in the reduction or withdrawal of any rating on an outstanding note, bond, or other debt or revenue obligation of the local district;

(d) create an island or peninsula of nondistrict territory within the local district or of district territory within nondistrict territory that has a material adverse affect on the local district's ability to provide service or materially increases the cost of providing service to the remainder of the local district;

(e) materially impair the operations of the remaining local district; or

(f) require the local district to materially increase the fees it charges or property taxes or other taxes it levies in order to provide to the remainder of the district the same level and quality of service that was provided before the withdrawal.

(4) In determining whether the withdrawal would have any of the results described in Subsection (3), the board of trustees may consider the cumulative impact that multiple withdrawals over a specified period of time would have on the local district.

(5) (a) Despite the presence of one or more of the conditions listed in Subsection (3), the board of trustees may approve a resolution withdrawing an area from the local district imposing terms or conditions that mitigate or eliminate the conditions listed in Subsection (3), including:

(i) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area pay their proportionate share of any outstanding district bond or other obligation as determined pursuant to Subsection (5)(b);

(ii) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area make one or more payments in lieu of taxes, fees, or assessments;

(iii) a requirement that the board of trustees and the receiving entity agree to reasonable payment and other terms in accordance with Subsections (5)(f) through (g) regarding the transfer to the receiving entity of district assets that the district used before withdrawal to provide service to the withdrawn area but no longer needs because of the withdrawal; provided that, if those district assets are allocated in accordance with Subsections (5)(f) through (g), the district shall immediately transfer to the receiving entity on the effective date of the withdrawal, all title to and possession of district assets allocated to the receiving entity; or

(iv) any other reasonable requirement considered to be necessary by the board of trustees.

(b) Other than as provided for in Subsection 17B-1-511(2), and except as provided in Subsection (5)(e), in determining the proportionate share of outstanding bonded indebtedness or other obligations under Subsection (5)(a)(i) and for purposes of determining the allocation and transfer of district assets under Subsection (5)(a)(iii), the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall:

(i) engage engineering and accounting consultants chosen by the procedure provided in Subsection (5)(d); provided however, that if the withdrawn area is not receiving service, an engineering consultant need not be engaged; and

(ii) require the engineering and accounting consultants engaged under Subsection (5)(b)(i) to communicate in writing to the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition the information required by Subsections (5)(f) through (h).

(c) For purposes of this Subsection (5):

(i) "accounting consultant" means a certified public accountant or a firm of certified public accountants with the expertise necessary to make the determinations required under Subsection (5)(h); and

(ii) "engineering consultant" means a person or firm that has the expertise in the engineering aspects of the type of system by which the withdrawn area is receiving service that is necessary to make the determination required under Subsections (5)(f) and (g).

(d) (i) Unless the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on an engineering consultant and an accounting consultant, each consultant shall be chosen from a list of consultants provided by the Consulting Engineers Council of Utah and the Utah Association of Certified Public Accountants, respectively, as provided in this Subsection (5)(d).

(ii) A list under Subsection (5)(d)(i) may not include a consultant who has had a contract for services with the district or the receiving entity during the two-year period immediately before the list is provided to the local district.

(iii) Within 20 days of receiving the lists described in Subsection (5)(d)(i), the board of trustees shall eliminate the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and shall notify the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition in writing of the eliminations.

(iv) Within three days of receiving notification under Subsection (5)(d), the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall eliminate another name of an engineering consultant from the list of engineering consultants and another name of an accounting consultant from the list of accounting consultants and shall notify the board of trustees in writing of the eliminations.

(v) The board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall continue to alternate between them, each eliminating the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and providing written notification of the eliminations within three days of receiving notification of the previous notification, until the name of only one engineering consultant remains on the list of engineering consultants and the name of only one accounting consultant remains on the list of accounting consultants.

(e) The requirement under Subsection (5)(b) to engage engineering and accounting consultants does not apply if the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on the allocations that are the engineering consultant's responsibility under Subsection (5)(f) or the determinations that are the accounting consultant's responsibility under Subsection (5)(h); provided however, that if engineering and accounting consultants are engaged, the district and the receiving entity, or in cases where there is no receiving entity, the district and the sponsors of the petition shall equally share the cost of the engineering and accounting consultants.

(f) (i) The engineering consultant shall allocate the district assets between the district and the receiving entity as provided in this Subsection (5)(f).

(ii) The engineering consultant shall allocate:

(A) to the district those assets reasonably needed by the district to provide to the area of the district remaining after withdrawal the kind, level, and quality of service that was provided before withdrawal; and

(B) to the receiving entity those assets reasonably needed by the receiving entity to provide to the withdrawn area the kind and quality of service that was provided before withdrawal.

(iii) If the engineering consultant determines that both the local district and the receiving entity reasonably need a district asset to provide to their respective areas the kind and quality of service provided before withdrawal, the engineering consultant shall:

(A) allocate the asset between the local district and the receiving entity according to their relative needs, if the asset is reasonably susceptible of division; or

(B) allocate the asset to the local district, if the asset is not reasonably susceptible of division.

(g) All district assets remaining after application of Subsection (5)(f) shall be allocated to the local district.

(h) (i) The accounting consultant shall determine the withdrawn area's proportionate share of any redemption premium and the principal of and interest on:

(A) the local district's revenue bonds that were outstanding at the time the petition was filed;

(B) the local district's general obligation bonds that were outstanding at the time the petition was filed; and

(C) the local district's general obligation bonds that:

(I) were outstanding at the time the petition was filed; and

(II) are treated as revenue bonds under Subsection (5)(i); and

(D) the district's bonds that were issued prior to the date the petition was filed to refund the district's revenue bonds, general obligation bonds, or general obligation bonds treated as revenue bonds.

(ii) For purposes of Subsection (5)(h)(i), the withdrawn area's proportionate share of redemption premium, principal, and interest shall be the amount that bears the same relationship to the total redemption premium, principal, and interest for the entire district that the average annual gross revenues from the withdrawn area during the three most recent complete fiscal years before the filing of the petition bears to the average annual gross revenues from the entire district for the same period.

(i) For purposes of Subsection (5)(h)(i), a district general obligation bond shall be treated as a revenue bond if:

(i) the bond is outstanding on the date the petition was filed; and

(ii) the principal of and interest on the bond, as of the date the petition was filed, had been paid entirely from local district revenues and not from a levy of ad valorem tax.

(j) (i) Before the board of trustees of the local district files a resolution approving a withdrawal, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall irrevocably deposit government obligations, as defined in Subsection 11-27-2(6), into an escrow trust fund the principal of and interest on which are sufficient to provide for the timely payment of the amount determined by the accounting consultant under Subsection (5)(h) or in an amount mutually agreeable to

the board of trustees of the local district and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition. Notwithstanding Subsection 17B-1-512(1), the board of trustees may not be required to file a resolution approving a withdrawal until the requirements for establishing and funding an escrow trust fund in this Subsection (5)(j)(i) have been met; provided that, if the escrow trust fund has not been established and funded within 180 days after the board of trustees passes a resolution approving a withdrawal, the resolution approving the withdrawal shall be void.

(ii) Concurrently with the creation of the escrow, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall provide to the board of trustees of the local district:

(A) a written opinion of an attorney experienced in the tax-exempt status of municipal bonds stating that the establishment and use of the escrow to pay the proportionate share of the district's outstanding revenue bonds and general obligation bonds that are treated as revenue bonds will not adversely affect the tax-exempt status of the bonds; and

(B) a written opinion of an independent certified public accountant verifying that the principal of and interest on the deposited government obligations are sufficient to provide for the payment of the withdrawn area's proportionate share of the bonds as provided in Subsection (5)(h).

(iii) The receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall bear all expenses of the escrow and the redemption of the bonds.

(iv) The receiving entity may issue bonds under Title 11, Chapter 14, Local Government Bonding Act, and Title 11, Chapter 27, Utah Refunding Bond Act, to fund the escrow.

(6) A requirement imposed by the board of trustees as a condition to withdrawal under Subsection (5) shall, in addition to being expressed in the resolution, be reduced to a duly authorized and executed written agreement between the parties to the withdrawal.

(7) An area that is the subject of a withdrawal petition under Section 17B-1-504 that results in a board of trustees resolution denying the proposed withdrawal may not be the subject of another withdrawal petition under Section 17B-1-504 for two years after the date of the board of trustees resolution denying the withdrawal.

Amended by Chapter 297, 2011 General Session

17B-1-511. Continuation of tax levy after withdrawal to pay for proportionate share of district bonds.

(1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn area shall continue after withdrawal to be taxable by the local district:

(a) for the purpose of paying the withdrawn area's just proportion of the local district's general obligation bonds, other than those bonds treated as revenue bonds under Subsection 17B-1-510(5)(i), until the bonded indebtedness has been satisfied; and

(b) to the extent and for the years necessary to generate sufficient revenue that, when combined with the revenues from the district remaining after withdrawal, is sufficient to provide for the payment of principal and interest on the district's general obligation bonds that are treated as revenue bonds under Subsection 17B-1-510(5)(i).

(2) For a local district funded predominately by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water, property within the withdrawn area shall continue to be taxable by the local district for purposes of paying the withdrawn area's proportionate share of bonded indebtedness or judgments against the local district incurred prior to the date the petition was filed.

(3) Except as provided in Subsections (1) and (2), upon withdrawal, the withdrawing area is relieved of all other taxes, assessments, and charges levied by the district, including taxes and charges for the payment of revenue bonds and maintenance and operation cost of the local district.

Amended by Chapter 97, 2012 General Session

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510; and

(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2), after receiving a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a), or after receiving notice of a withdrawal of a municipality from a local district under Section 17B-2-505.

(c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:

- (i) in a newspaper of general circulation in the area proposed for withdrawal; and
- (ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

- (i) the name of the local district;
- (ii) a description of the area proposed for withdrawal;
- (iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and
- (iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

- (i) the board of trustees' decision to withdraw an area from the local district;
- (ii) the terms and conditions of a withdrawal; or
- (iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days

after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or
(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Amended by Chapter 297, 2011 General Session

17B-1-513. Termination of terms of trustees representing withdrawn areas.

(1) On the effective date of withdrawal of an area from a local district, any trustee residing in the withdrawn area shall cease to be a member of the board of trustees of the local district.

(2) If the local district has been divided into divisions for the purpose of electing or appointing trustees and the area withdrawn from a district constitutes all or substantially all of the area in a division of the local district that is represented by a member of the board of trustees, on the effective date of the withdrawal, the trustee representing the division shall cease to be a member of the board of trustees of the local district.

(3) In the event of a vacancy on the board of trustees as a result of an area being withdrawn from the local district:

(a) the board of trustees shall reduce the number of trustees of the local district as provided by law; or

(b) the trustee vacancy shall be filled as provided by law.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-601. Definitions.

As used in this part:

(1) "Appropriation" means an allocation of money by the board of trustees for a specific purpose.

(2) "Budget" means a plan of financial operations for a fiscal year which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them, and may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(3) "Budget officer" means the person appointed by the local district board of trustees to prepare the budget for the district.

(4) "Budget year" means the fiscal year for which a budget is prepared.

(5) "Calendar year entity" means a local district whose fiscal year begins January 1 and ends December 31 of each calendar year as described in Section 17B-1-602.

(6) "Current year" means the fiscal year in which a budget is prepared and adopted, which is the fiscal year next preceding the budget year.

(7) "Deficit" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(8) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget year in each fund for which a budget is being prepared.

(9) "Financial officer" means the official under Section 17B-1-642.

(10) "Fiscal year" means the annual period for accounting for fiscal operations in each district.

(11) "Fiscal year entity" means a local district whose fiscal year begins July 1 of each year and ends on June 30 of the following year as described in Section 17B-1-602.

(12) "Fund" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(13) "Fund balance" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(14) "Governmental funds" means the general fund, special revenue fund, debt service fund, and capital projects fund of a local district.

(15) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment. It does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund.

(16) "Last completed fiscal year" means the fiscal year next preceding the current fiscal year.

(17) "Proprietary funds" means enterprise funds and the internal service funds of a local district.

(18) "Public funds" means any money or payment collected or received by an officer or employee of a local district acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the district, or the officer or employee while acting within the scope of employment or duty.

(19) "Retained earnings" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(20) "Special fund" means any local district fund other than the local district's general fund.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-602. Fiscal year.

The fiscal year of each local district shall be, as determined by the board of trustees:

- (1) the calendar year; or
- (2) the period from July 1 to the following June 30.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-603. Uniform accounting system.

The accounting records of each local district shall be established and maintained, and financial statements prepared from those records, in conformance with generally accepted accounting principles promulgated from time to time by authoritative bodies in the United States.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-604. Funds and account groups maintained.

Each district shall maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts, as prescribed in the Uniform Accounting Manual for Local Districts.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-605. Budget required for certain funds -- Capital projects fund.

(1) The budget officer of each local district shall prepare for each budget year a budget for each of the following funds:

- (a) the General Fund;
- (b) special revenue funds;
- (c) debt service funds;
- (d) capital projects funds;
- (e) proprietary funds, in accordance with Section 17B-1-629;
- (f) if the local district has a local fund, as defined in Section 53-2a-602, the local fund; and
- (g) any other fund or funds for which a budget is required by the uniform system of budgeting, accounting, and reporting.

(2) (a) Major capital improvements financed by general obligation bonds, capital grants, or interfund transfers shall use a capital projects fund budget unless the improvements financed are to be used for proprietary type activities.

(b) The local district shall prepare a separate budget for the term of the projects as well as the annual budget required under Subsection (1).

Amended by Chapter 295, 2013 General Session

17B-1-606. Total of revenues to equal expenditures.

(1) The budget for each fund under Section 17B-1-605 shall provide a financial plan for the budget year.

(2) Each budget shall specify in tabular form:

(a) estimates of all anticipated revenues, classified by the account titles prescribed in the Uniform Accounting Manual for Local Districts; and

(b) all appropriations for expenditures, classified by the account titles prescribed in the Uniform Accounting Manual for Local Districts.

(3) The total of the anticipated revenues shall equal the total of appropriated expenditures.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-607. Tentative budget to be prepared -- Review by governing body.

(1) On or before the first regularly scheduled meeting of the board of trustees in November for a calendar year entity and May for a fiscal year entity, the budget officer of each local district shall prepare for the ensuing year, on forms provided by the state auditor, and file with the board of trustees a tentative budget for each fund for which a budget is required.

(2) (a) Each tentative budget under Subsection (1) shall provide in tabular form:

- (i) actual revenues and expenditures for the last completed fiscal year;
- (ii) estimated total revenues and expenditures for the current fiscal year; and
- (iii) the budget officer's estimates of revenues and expenditures for the budget

year.

(b) The budget officer shall estimate the amount of revenue available to serve the needs of each fund, estimate the portion to be derived from all sources other than general property taxes, and estimate the portion that shall be derived from general property taxes.

(3) The tentative budget, when filed by the budget officer with the board of trustees, shall contain the estimates of expenditures together with specific work programs and any other supporting data required by this part or requested by the board.

(4) The board of trustees shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose and may amend or revise the tentative budget in any manner that the board considers advisable prior to public hearings, but no appropriation required for debt retirement and interest or reduction of any existing deficits under Section 17B-1-613, or otherwise required by law, may be reduced below the minimums so required.

(5) When a new district is created, the board of trustees shall:

- (a) prepare a budget covering the period from the date of incorporation to the end of the fiscal year;
- (b) substantially comply with all other provisions of this part with respect to notices and hearings; and
- (c) pass the budget as soon after incorporation as feasible.

Amended by Chapter 297, 2011 General Session

17B-1-608. Tentative budget and data -- Public records.

The tentative budget adopted by the board of trustees and all supporting schedules and data are public records, and are available for public inspection for a period of at least seven days prior to the adoption of a final budget.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-609. Hearing to consider adoption.

- (1) At the meeting at which the tentative budget is adopted, the board of trustees shall:
- (a) establish the time and place of a public hearing to consider its adoption; and
 - (b) order that notice of the hearing:
 - (i) (A) be published at least seven days before the hearing in at least one issue of a newspaper of general circulation published in the county or counties in which the district is located; or
 - (B) if no newspaper is published, be posted in three public places within the district; and
 - (ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section 63F-1-701.
- (2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):
- (a) may be combined with the notice required under Section 59-2-919; and
 - (b) shall be published in accordance with the advertisement provisions of Section 59-2-919.
- (3) Proof that notice was given in accordance with Subsection (1)(b) or (2) is prima face evidence that notice was properly given.
- (4) If a notice required under Subsection (1)(b) or (2) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

Amended by Chapter 97, 2012 General Session

17B-1-610. Public hearing on tentatively adopted budget.

- At the time and place advertised, or at any time or any place to which the public hearing may be adjourned, the board of trustees shall:
- (1) hold a public hearing on the budgets tentatively adopted; and
 - (2) give all interested persons in attendance an opportunity to be heard on the estimates of revenues and expenditures or any item in the tentative budget of any fund.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-611. Continuing authority of governing body.

- After the conclusion of the public hearing, the board of trustees:
- (1) may:
 - (a) continue to review the tentative budget;
 - (b) insert any new items; or
 - (c) increase or decrease items of expenditure that were the proper subject of consideration at the public hearing;
 - (2) may not decrease the amount appropriated for debt retirement and interest or reduction of any existing deficits, as provided by Section 17B-1-613; and
 - (3) shall increase or decrease the total anticipated revenue to equal the net change in proposed expenditures in the budget of each fund.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-612. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital projects.

(1) (a) A local district may accumulate retained earnings or fund balances, as appropriate, in any fund.

(b) For the general fund only, an accumulated fund balance may be used only:

(i) to provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);

(ii) to provide a resource to meet emergency expenditures under Section 17B-1-623; and

(iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).

(c) Subsection (1)(b)(i) may not be construed to authorize a local district to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).

(d) Subsection (1)(b)(iii) may not be construed to authorize a local district to appropriate a fund balance to avoid an operating deficit during a budget year except:

(i) as provided under Subsection (4); or

(ii) for emergency purposes under Section 17B-1-623.

(2) The accumulation of a fund balance in the general fund may not exceed the greater of:

(a) 100% of the current year's property tax; or

(b) (i) 25% of the total general fund revenues for a district with an annual general fund budget greater than \$100,000; or

(ii) 50% of the total general fund revenues for a district with an annual general fund budget equal to or less than \$100,000.

(3) If the fund balance at the close of any fiscal year exceeds the amount permitted under Subsection (2), the district shall appropriate the excess in the manner provided in Section 17B-1-613.

(4) Any fund balance in excess of 5% of the total revenues of the general fund may be utilized for budget purposes.

(5) (a) Within a capital projects fund the board of trustees may, in any budget year, appropriate from estimated revenue or fund balance to a reserve for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan adopted by the board of trustees.

(b) A local district may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) A local district may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation adopted in the manner provided by this part.

(d) Expenditures from the above appropriation budget accounts shall conform to all requirements of this part relating to execution and control of budgets.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-613. Appropriations not to exceed estimated expendable revenue -- Determination of revenue -- Appropriations for existing deficits.

(1) The board of trustees of a local district may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of the fund.

(2) In determining the estimated expendable revenue of the general fund for the budget year there is included as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal year, not previously included in the budget of the current year, that exceeds the amount permitted in Section 17B-1-612.

(3) (a) There is included as an item of appropriation in each fund for any budget year any existing deficit created in accordance with Section 17B-1-623 as of the close of the last completed fiscal year, not previously included in the budget of the current year, to the extent of at least 5% of the total revenue of the fund in its last completed fiscal year.

(b) If the total amount of the deficit is less than 5% of the total revenue in the last completed fiscal year, the entire amount of the deficit shall be included.

(c) The entire amount of any deficit which results from activities other than those described in Section 17B-1-623 shall be included as an item of appropriation in each fund for any budget year not previously included in the budget of the current year.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-614. Adoption of final budget -- Certification and filing.

(1) The board of trustees of each local district shall by resolution adopt a budget for the ensuing fiscal year for each fund for which a budget is required under this part prior to the beginning of the fiscal year, except as provided in Sections 59-2-919 through 59-2-923.

(2) The local district's budget officer shall certify a copy of the final budget for each fund and file it with the state auditor within 30 days after adoption.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-615. Budgets in effect for budget year.

(1) Upon final adoption, each budget shall be in effect for the budget year, subject to amendment as provided in this part.

(2) A certified copy of the adopted budgets shall be filed in the district office and shall be available to the public during regular business hours.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-616. Property tax levy -- Amount in budget as basis for determining.
From the effective date of the budget or of any amendment enacted prior to the

date on which property taxes are levied, the amount stated as the amount of estimated revenue from property taxes shall constitute the basis for determining the property tax levy to be set by the board of trustees for the corresponding tax year, subject to the applicable limitations imposed by law.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-617. Fund expenditures -- Budget officer's duties.

(1) The budget officer of each local district shall require all expenditures within each fund to conform with the fund budget.

(2) No appropriation may be encumbered and no expenditure may be made against any fund appropriation unless there is sufficient unencumbered balance in the fund's appropriation, except in cases of emergency as provided in Section 17B-1-623.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-618. Purchasing procedures.

All purchases or encumbrances by a local district shall be made or incurred according to the purchasing procedures established by each district by resolution and only on an order or approval of the person or persons duly authorized.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-619. Expenditures or encumbrances in excess of appropriations prohibited -- Processing claims.

(1) A local district may not make or incur expenditures or encumbrances in excess of total appropriations in the budget as adopted or as subsequently amended.

(2) An obligation contracted by any officer in excess of total appropriations in the budget is not enforceable against the district.

(3) No check or warrant to cover a claim against an appropriation may be drawn until the claim has been processed as provided by this part.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-620. Transfer of appropriation balance between accounts in same fund.

(1) The board of trustees of each local district shall establish policies for the transfer of any unencumbered or unexpended appropriation balance or portion of the balance from one account in a fund to another account within the same fund, subject to Subsection (2).

(2) An appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law or covenant may not be reduced below the minimums required.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-621. Review of individual governmental fund budgets -- Hearing.

(1) The board of trustees of a local district may, at any time during the budget year, review the individual budgets of the governmental funds for the purpose of determining if the total of any of them should be increased.

(2) If the board of trustees decides that the budget total of one or more of these funds should be increased, it shall follow the procedures established in Sections 17B-1-609 and 17B-1-610 for holding a public hearing.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-622. Amendment and increase of individual fund budgets.

(1) After holding the hearing referred to in Section 17B-1-621, the board of trustees may, by resolution, amend the budgets of the funds proposed to be increased, so as to make all or part of the increases, both estimated revenues and appropriations, which were the proper subject of consideration at the hearing.

(2) The board of trustees may not adopt an amendment to the current year budgets of any of the funds established in Section 17B-1-605 after the last day of the fiscal year.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-623. Emergency expenditures.

The board of trustees of a local district may, by resolution, amend a budget and authorize an expenditure of money that results in a deficit in the district's general fund balance if:

- (1) the board determines that:
 - (a) an emergency exists; and
 - (b) the expenditure is reasonably necessary to meet the emergency; and
- (2) the expenditure is used to meet the emergency.

Enacted by Chapter 329, 2007 General Session

17B-1-624. Lapse of appropriations -- Exceptions.

All unexpended or unencumbered appropriations, except capital projects fund appropriations, lapse at the end of the budget year to the respective fund balance.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-625. Transfer of balances in special funds.

If the necessity for maintaining any special fund of a district ceases to exist and a balance remains in the fund, the board of trustees shall authorize the transfer of the balance to the fund balance in the general fund of the district, subject to the following:

(1) Any balance remaining in a special assessment fund and not required in its guaranty fund shall be treated in the manner provided in Sections 11-42-413 and 11-42-701.

(2) Any balance remaining in a capital projects fund shall be transferred to the

appropriate debt service fund or other fund as the bond covenants may require and otherwise to the fund balance account in the general fund.

(3) If any balance held in a trust fund for a specific purpose, other than a cemetery perpetual care trust fund, is to be transferred because its original purpose or restriction has ceased to exist, a public hearing shall be held in the manner provided in Sections 17B-1-609 and 17B-1-610. The published notice shall invite those persons who contributed to the fund to appear at the hearing. If the board of trustees determines the fund balance amounts are refundable to the original contributors, a 30-day period following the hearing shall be allowed for persons having an interest in the fund to file with the board of trustees a verified claim only for the amount of each claimant's contributions. Any claim not so filed shall be barred. Any balance remaining, after refunds to eligible contributors, shall be transferred to the fund balance account in the general fund of the district.

(4) If the board of trustees decides, in conformity with applicable laws, that the need for continuing maintenance of its cemetery perpetual care trust fund no longer exists, it may transfer the balance in the fund to the capital projects fund for expenditure for land, buildings, and major improvements to be used exclusively for cemetery purposes.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-626. Loans by one fund to another.

Subject to restrictions imposed by bond covenants, statute, or other controlling regulations, the board of trustees of a local district may authorize interfund loans from one fund to another at interest rates, repayment terms, and conditions prescribed by the board of trustees.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-627. Property tax levy -- Time for setting -- Computation of total levy -- Apportionment of proceeds -- Maximum levy.

(1) The board of trustees of each local district authorized to levy a property tax, at a regular meeting or special meeting called for that purpose, shall, by resolution, set the real and personal property tax rate for various district purposes by the date set under Section 59-2-912, but the rate may be set at an appropriate later date in accordance with Sections 59-2-919 through 59-2-923.

(2) In its computation of the total levy, the board of trustees shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its resolution adopting the tax rate the amount apportioned to each fund.

(3) The proceeds of the levy apportioned for general fund purposes shall be credited as revenue in the general fund.

(4) The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

(5) The combined levies for each district for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest on the bonds, and any taxes expressly authorized by law to be levied in addition, may not

exceed the limit enumerated by the laws governing each district.

Amended by Chapter 204, 2009 General Session

17B-1-628. Certification of resolution setting levy.

The district clerk, as appointed under Section 17B-1-631, shall certify the resolution setting the levy to the county auditor, or auditors if the district is located in more than one county, in accordance with Section 59-2-912, or in the case of a tax rate increase in excess of the certified rate, in accordance with Section 59-2-920.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-629. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for a proprietary or other required special fund, embodying estimates of operating resources and expenses and other outlays for a fiscal year.

(b) Except as otherwise expressly provided, the reference to "budget" or "budgets" and the procedures and controls relating to them in other sections of this part do not apply or refer to the "operating and capital budgets" provided for in this section.

(2) On or before the time the board of trustees adopts budgets for the governmental funds under Section 17B-1-605, it shall adopt for the ensuing year an operating and capital budget for each proprietary fund and shall adopt the type of budget for other special funds which is required by the Uniform Accounting Manual for Local Districts.

(3) Operating and capital budgets shall be adopted and administered in the following manner:

(a) (i) On or before the first regularly scheduled meeting of the board of trustees, in November for calendar year entities and May for fiscal year entities, the budget officer shall prepare for the ensuing fiscal year, and file with the board of trustees, a tentative operating and capital budget for each proprietary fund and for other required special funds, together with specific work programs and any other supporting data required by the board.

(ii) If, within any proprietary fund, allocations or transfers that are not reasonable allocations of costs between funds are included in a tentative budget, a written notice of the date, time, place, and purpose of the hearing shall be mailed to utility fund customers at least seven days before the hearing.

(iii) The purpose portion of the notice required under Subsection (3)(a)(ii) shall identify:

(A) the enterprise utility fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(b) (i) The board of trustees shall review and consider the tentative budgets at any regular meeting or special meeting called for that purpose.

(ii) The board of trustees may make any changes in the tentative budgets that it considers advisable.

(c) Budgets for proprietary or other required special funds shall comply with the

public hearing requirements established in Sections 17B-1-609 and 17B-1-610.

(d) (i) The board of trustees shall adopt an operating and capital budget for each proprietary fund for the ensuing fiscal year before the beginning of each fiscal year, except as provided in Sections 59-2-919 through 59-2-923.

(ii) A copy of the budget as finally adopted for each proprietary fund shall be certified by the budget officer and filed by the officer in the district office and shall be available to the public during regular business hours.

(iii) A copy of the budget shall also be filed with the state auditor within 30 days after adoption.

(e) (i) Upon final adoption, the operating and capital budget is in effect for the budget year, subject to later amendment.

(ii) During the budget year, the board of trustees may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(iii) If the board of trustees decides that the budget total of one or more of these proprietary funds should be increased, the board shall follow the procedures established in Section 17B-1-630.

(f) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 17B-1-617 through 17B-1-620.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-630. Increase in appropriations for operating and capital budget funds -- Notice.

The total budget appropriation of any fund described in Section 17B-1-629 may be increased by resolution of the board of trustees at any regular meeting, or special meeting called for that purpose, if written notice of the time, place, and purpose of the meeting has been mailed or delivered to all members of the board of trustees at least five days prior to the meeting. The notice may be waived in writing or orally during attendance at the meeting by any member of the board of trustees.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-631. District clerk -- Meetings and records.

(1) The board of trustees of each local district shall appoint a district clerk.

(2) If required, the clerk may be chosen from among the members of the board of trustees, except the chair.

(3) The district clerk or other appointed person shall attend the meetings and keep a record of the proceedings of the board of trustees.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-632. District clerk -- Bookkeeping duties.

The district clerk or other designated person not performing treasurer duties shall maintain the financial records for each fund of the local district and all related subsidiary

records, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-633. District treasurer -- Duties generally.

(1) (a) The board of trustees of each local district shall appoint a district treasurer.

(b) (i) If required, the treasurer may be chosen from among the members of the board of trustees, except that the board chair may not be district treasurer.

(ii) The district clerk may not also be the district treasurer.

(2) The district treasurer is custodian of all money, bonds, or other securities of the district.

(3) The district treasurer shall:

(a) determine the cash requirements of the district and provide for the deposit and investment of all money by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(b) receive all public funds and money payable to the district within three business days after collection, including all taxes, licenses, fines, and intergovernmental revenue;

(c) keep an accurate detailed account of all money received under Subsection (3)(b) in the manner provided in this part and as directed by the district's board of trustees by resolution; and

(d) collect all special taxes and assessments as provided by law and ordinance.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-634. Receipts for payment.

The district treasurer shall give or cause to be given to every person paying money to the district treasury, a receipt or other evidence of payment, specifying, as appropriate, the date of payment and upon which account paid and shall file the duplicate of the receipt.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-635. Duties with respect to issuance of checks.

(1) The district clerk or other designated person not performing treasurer duties shall prepare the necessary checks after having determined that:

(a) the claim was authorized by:

(i) the board of trustees; or

(ii) the local district financial officer, if the financial officer is not the clerk, in accordance with Section 17B-1-642;

(b) the claim does not overexpend the appropriate departmental budget established by the board of trustees; and

(c) the expenditure was approved in advance by the board of trustees or its designee.

(2) (a) (i) The treasurer or any other person appointed by the board of trustees shall sign all checks.

(ii) The person maintaining the financial records may not sign any single signature check.

(b) In a local district with an expenditure budget of less than \$50,000 per year, a member of the board of trustees shall also sign all checks.

(c) Before affixing a signature, the treasurer or other designated person shall determine that a sufficient amount is on deposit in the appropriate bank account of the district to honor the check.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-636. Special assessments -- Application of proceeds.

All money received by the treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made. The money shall be used for the payment of interest and principal on bonds or other indebtedness issued in settlement, and may not be used for any other purpose except as provided in Section 17B-1-625.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-637. Deposit of district funds -- Commingling with personal funds unlawful -- Suspension from office.

The treasurer shall promptly deposit all district funds in the appropriate bank accounts of the district. It shall be unlawful for any person to commingle district funds with the person's own money. If it appears that the treasurer or any other officer is making a profit out of public money, or is using the same for any purpose not authorized by law, the treasurer or officer shall be suspended from office.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-638. Quarterly financial reports required.

The district clerk or other delegated person shall prepare and present to the board of trustees detailed quarterly financial reports showing the financial position and operations of the district for that quarter and the year to date status.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-639. Annual financial reports -- Audit reports.

(1) Within 180 days after the close of each fiscal year, the district shall prepare an annual financial report in conformity with generally accepted accounting principles as prescribed in the Uniform Accounting Manual for Local Districts.

(2) The requirement under Subsection (1) to prepare an annual financial report may be satisfied by presentation of the audit report furnished by the auditor.

(3) Copies of the annual financial report or the audit report furnished by the auditor shall be filed with the state auditor and shall be filed as a public document in the

district office.

Amended by Chapter 448, 2013 General Session

17B-1-640. Audits required.

(1) An audit of each local district is required to be performed in conformity with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) The board of trustees shall appoint an auditor for the purpose of complying with the requirements of this section and with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Amended by Chapter 448, 2013 General Session

17B-1-641. Local district may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), a local district may expand the uniform accounting, budgeting, and reporting procedure prescribed in the Uniform Accounting Manual for Local Districts prepared by the state auditor under Subsection 67-3-1(13), to better serve the needs of the district.

(2) A local district may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts set forth in the Uniform Accounting Manual for Local Districts.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-642. Approval of district expenditures.

(1) The board of trustees of each local district shall approve all expenditures of the district except as otherwise provided in this section.

(2) The board of trustees may authorize the district manager or other official approved by the board to act as the financial officer for the purpose of approving:

(a) payroll checks, if the checks are prepared in accordance with a schedule approved by the board; and

(b) routine expenditures, such as utility bills, payroll-related expenses, supplies, and materials.

(3) Notwithstanding Subsection (2), the board of trustees shall, at least quarterly, review all expenditures authorized by the financial officer.

(4) The board of trustees shall set a maximum sum over which all purchases may not be made without the board's approval.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which any interested person may speak for or against the proposal to impose

a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsection (2)(b)(i) or (c).

(b) (i) (A) The notice required under Subsection (2)(a) shall be published:

(I) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

(II) if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall post at least one notice per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

(B) The notice described in Subsection (2)(b)(i)(A)(I):

(I) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(II) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(III) whenever possible, shall appear in a newspaper that is published at least one day per week;

(IV) shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and

(V) shall be run once each week for the two weeks preceding the hearing.

(ii) The notice described in Subsection (2)(b)(i)(A) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(c) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(c)(i) shall comply with Subsection (2)(b)(ii).

(iii) A notice under Subsection (2)(c)(i) may accompany a district bill for an existing fee.

(d) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice requirement under this Subsection (2) is satisfied if a notice that meets the requirements of Subsection (2)(b)(ii) is combined with

the notice required under Section 17B-1-609.

(e) Proof that notice was given as provided in Subsection (2)(b) or (c) is prima facie evidence that notice was properly given.

(f) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Amended by Chapter 47, 2011 General Session

Amended by Chapter 106, 2011 General Session

17B-1-644. Definitions -- Electronic payments -- Fee.

(1) As used in this section:

(a) "Electronic payment" means the payment of money to a local district by electronic means, including by means of a credit card, charge card, debit card, prepaid or stored value card or similar device, or automatic clearinghouse transaction.

(b) "Electronic payment fee" means an amount of money to defray the discount fee, processing fee, or other fee charged by a credit card company or processing agent to process an electronic payment.

(c) "Processing agent" means a bank, transaction clearinghouse, or other third party that charges a fee to process an electronic payment.

(2) A local district may accept an electronic payment for the payment of funds which the local district could have received through another payment method.

(3) A local district that accepts an electronic payment may charge an electronic payment fee.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-645. Residential fee credit.

(1) A local district may create a fee structure under this title that permits:

(a) a home owner or residential tenant to file for a fee credit for a fee charged by the local district, if the credit is based on:

(i) the home owner's annual income; or

(ii) the residential tenant's annual income; or

(b) an owner of federally subsidized housing to file for a credit for a fee charged by the local district.

- (2) If a local district permits a person to file for a fee credit under Subsection (1)(a), the local district shall make the credit available to:
- (a) a home owner; and
 - (b) a residential tenant.

Enacted by Chapter 171, 2010 General Session

17B-1-701. Definitions.

As used in this part:

- (1) "Audit reports" means the reports of any independent audit of the district performed by:
- (a) an independent auditor as required by Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
 - (b) the state auditor; or
 - (c) the legislative auditor.
- (2) "Board" means the local district board of trustees.
- (3) "Budget" means a plan of financial operations for a fiscal year that includes:
- (a) estimates of proposed expenditures for given purposes and the proposed means of financing them;
 - (b) the source and amount of estimated revenue for the district for the fiscal year;
 - (c) fund balance in each fund at the beginning of the fiscal year and the projected fund balance for each fund at the end of the fiscal year; and
 - (d) capital projects or budgets for proposed construction or improvement to capital facilities within the district.
- (4) "Constituent entity" means any county, city, or town that levies property taxes within the boundaries of the district.
- (5) (a) "Customer agencies" means those governmental entities, except school districts, institutions of higher education, and federal government agencies that purchase or obtain services from the local district.
- (b) "Customer agencies" for purposes of state agencies means the state auditor.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-702. Local districts to submit budgets.

- (1) (a) Except as provided in Subsection (1)(b), within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of each local district with an annual budget of \$50,000 or more shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:
- (i) each of its constituent entities that has in writing requested a copy; and
 - (ii) to each of its customer agencies that has in writing requested a copy.
- (b) Within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of trustees of a public transit district serving a population of more than 200,000 people shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

- (i) each of its constituent entities;
 - (ii) each of its customer agencies that has in writing requested a copy;
 - (iii) the governor; and
 - (iv) the Legislature.
- (c) The local district shall include with the tentative budget a signature sheet that includes:
- (i) language that the constituent entity or customer agency received the tentative budget and has no objection to it; and
 - (ii) a place for the chairperson or other designee of the constituent entity or customer agency to sign.
- (2) Each constituent entity and each customer agency that receives the tentative budget shall review the tentative budget submitted by the district and either:
- (a) sign the signature sheet and return it to the district; or
 - (b) attend the budget hearing or other meeting scheduled by the district to discuss the objections to the proposed budget.
- (3) (a) If any constituent entity or customer agency that received the tentative budget has not returned the signature sheet to the local district within 15 calendar days after the tentative budget was mailed, the local district shall send a written notice of the budget hearing to each constituent entity or customer agency that did not return a signature sheet and invite them to attend that hearing.
- (b) If requested to do so by any constituent entity or customer agency, the local district shall schedule a meeting to discuss the budget with the constituent entities and customer agencies.
- (c) At the budget hearing, the local district board shall:
- (i) explain its budget and answer any questions about it;
 - (ii) specifically address any questions or objections raised by the constituent entity, customer agency, or those attending the meeting; and
 - (iii) seek to resolve the objections.
- (4) Nothing in this part prevents a local district board from approving or implementing a budget over any or all constituent entity's or customer agency's protests, objections, or failure to respond.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-703. Local districts to submit audit reports.

- (1) (a) Except as provided in Subsection (1)(b), within 30 days after it is presented to the board, the board of each local district with an annual budget of \$50,000 or more shall send a copy of any audit report to:
- (i) each of its constituent entities that has in writing requested a copy; and
 - (ii) each of its customer agencies that has in writing requested a copy.
- (b) Within 30 days after it is presented to the board, the board of a public transit district serving a population of more than 200,000 people shall send a copy of its annual audit report to:
- (i) each of its constituent entities; and
 - (ii) each of its customer agencies that has in writing requested a copy.
- (2) Each constituent entity and each customer agency that received the audit

report shall review the audit report submitted by the district and, if necessary, request a meeting with the district board to discuss the audit report.

(3) At the meeting, the local district board shall:

(a) answer any questions about the audit report; and

(b) discuss their plans to implement suggestions made by the auditor.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-801. Establishment of local district merit system.

(1) A merit system of personnel administration for the local districts of the state, their departments, offices, and agencies, except as otherwise specifically provided, is established.

(2) This part does not apply to a local district with annual revenues less than \$50,000.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-802. Review of personnel policies.

Each local district that has full or part-time employees shall annually review its personnel policies to ensure that they conform to the requirements of state and federal law.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-803. Merit principles.

A local district may establish a personnel system administered in a manner that will provide for the effective implementation of merit principles that provide for:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) providing equitable and adequate compensation;

(3) training employees as needed to assure high-quality performance;

(4) retaining employees on the basis of the adequacy of their performance, and separation of employees whose inadequate performance cannot be corrected;

(5) fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

(6) providing information to employees regarding their political rights and prohibited practices under the Hatch Political Activities Act, 5 U.S.C. Sec. 1501 through 1508 et seq.; and

(7) providing a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-804. Compliance with Labor Code requirements.

Each local district shall comply with the requirements of Section 34-32-1.1.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-901. A single bill for multiple commodities, services, or facilities -- Suspending service to a delinquent customer.

(1) If a local district provides more than one commodity, service, or facility, the district may bill for the fees and charges for all commodities, services, and facilities in a single bill.

(2) A local district may suspend furnishing a commodity, service, or facility to a customer if the customer fails to pay all fees and charges when due.

Enacted by Chapter 329, 2007 General Session

17B-1-902. Lien for past due service fees -- Limitations.

(1) (a) A local district may certify, to the treasurer of the county in which the customer's property is located, past due fees and charges for commodities, services, or facilities that the district has provided to the customer's property.

(b) Subject to Subsection (2), the past due fees and charges, including applicable interest and penalties, upon their certification under Subsection (1)(a), become a lien on the customer's property to which the commodities, services, or facilities were provided, on a parity with and collectible at the same time and in the same manner as general county taxes that are a lien on the property.

(2) A lien under Subsection (1) is not valid if certification under Subsection (1) is made after the filing for record of a document conveying title of the customer's property to a new owner.

(3) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees or charges that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees or charges for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

(4) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-903. Authority to require written application for water or sewer service and to terminate for failure to pay -- Limitations.

(1) A local district that owns or controls a system for furnishing water or providing sewer service or both may:

(a) before furnishing water or providing sewer service to a property, require the property owner or an authorized agent to submit a written application, signed by the

owner or an authorized agent, agreeing to pay for all water furnished or sewer service provided to the property, whether occupied by the owner or by a tenant or other occupant, according to the rules and regulations adopted by the local district; and

(b) if a customer fails to pay for water furnished or sewer service provided to the customer's property, discontinue furnishing water or providing sewer service to the property until all amounts for water furnished or sewer service provided are paid, subject to Subsection (2).

(2) Unless a valid lien has been established as provided in Section 17B-1-902, has not been satisfied, and has not been terminated by a sale as provided in Subsection 17B-1-902(2), a local district may not:

(a) use a customer's failure to pay for water furnished or sewer service provided to the customer's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner; or

(b) require an owner to pay for water that was furnished or sewer service that was provided to the property before the owner's ownership.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-904. Collection of service fees.

(1) As used in this section:

(a) "Collection costs" means an amount, not to exceed \$20, to reimburse a local district for expenses associated with its efforts to collect past due service fees from a customer.

(b) "Customer" means the owner of real property to which a local district has provided a service for which the local district charges a service fee.

(c) "Damages" means an amount equal to the greater of:

(i) \$100; and

(ii) triple the past due service fees.

(d) "Default date" means the date on which payment for service fees becomes past due.

(e) "Past due service fees" means service fees that on or after the default date have not been paid.

(f) "Prelitigation damages" means an amount that is equal to the greater of:

(i) \$50; and

(ii) triple the past due service fees.

(g) "Service fee" means an amount charged by a local district to a customer for a service, including furnishing water, providing sewer service, and providing garbage collection service, that the district provides to the customer's property.

(2) A customer is liable to a local district for past due service fees and collection costs if:

(a) the customer has not paid service fees before the default date;

(b) the local district mails the customer notice as provided in Subsection (4); and

(c) the past due service fees remain unpaid 15 days after the local district has mailed notice.

(3) If a customer has not paid the local district the past due service fees and collection costs within 30 days after the local district mails notice, the local district may

make an offer to the customer that the local district will forego filing a civil action under Subsection (5) if the customer pays the local district an amount that:

(a) consists of the past due service fees, collection costs, prelitigation damages, and, if the local district retains an attorney to recover the past due service fees, a reasonable attorney fee not to exceed \$50; and

(b) if the customer's property is residential, may not exceed \$100.

(4) (a) Each notice under Subsection (2)(b) shall:

(i) be in writing;

(ii) be mailed to the customer by the United States mail, postage prepaid;

(iii) notify the customer that:

(A) if the past due service fees are not paid within 15 days after the day on which the local district mailed notice, the customer is liable for the past due service fees and collection costs; and

(B) the local district may file civil action if the customer does not pay to the local district the past due service fees and collection costs within 30 calendar days from the day on which the local district mailed notice; and

(iv) be in substantially the following form:

Date: _____

To: _____

Service address: _____

Account or invoice number(s): _____

Date(s) of service: _____

Amount past due: _____

You are hereby notified that water or sewer service fees (or both) owed by you are in default. In accordance with Section 17B-1-902, Utah Code Annotated, if you do not pay the past due amount within 15 days from the day on which this notice was mailed to you, you are liable for the past due amount together with collection costs of \$20.

You are further notified that if you do not pay the past due amount and the \$20 collection costs within 30 calendar days from the day on which this notice was mailed to you, an appropriate civil legal action may be filed against you for the past due amount, interest, court costs, attorney fees, and damages in an amount equal to the greater of \$100 or triple the past due amounts, but the combined total of all these amounts may not exceed \$200 if your property is residential.

(Signed) _____

Name of local district _____

Address of local district _____

Telephone number of local district _____

(b) Written notice under this section is conclusively presumed to have been given if the notice is:

(i) properly deposited in the United States mail, postage prepaid, by certified or registered mail, return receipt requested; and

(ii) addressed to the customer at the customer's:

(A) address as it appears in the records of the local district; or

(B) last-known address.

(5) (a) A local district may file a civil action against the customer if the customer

fails to pay the past due service fees and collection costs within 30 calendar days from the date on which the local district mailed notice under Subsection (2)(b).

(b) (i) In a civil action under this Subsection (5), a customer is liable to the local district for an amount that:

(A) consists of past due service fees, collection costs, interest, court costs, a reasonable attorney fee, and damages; and

(B) if the customer's property is residential, may not exceed \$200.

(ii) Notwithstanding Subsection (5)(b)(i), a court may, upon a finding of good cause, waive interest, court costs, the attorney fee, and damages, or any combination of them.

(c) If a local district files a civil action under this Subsection (5) before 31 calendar days after the day on which the local district mailed notice under Subsection (2)(b), a customer may not be held liable for an amount in excess of past due service fees.

(d) A local district may not file a civil action under this Subsection (5) unless the customer has failed to pay the past due service fees and collection costs within 30 days from the day on which the local district mailed notice under Subsection (2)(b).

(6) (a) All amounts charged or collected as prelitigation damages or as damages shall be paid to and be the property of the local district that furnished water or provided sewer service and may not be retained by a person who is not that local district.

(b) A local district may not contract for a person to retain any amounts charged or collected as prelitigation damages or as damages.

(7) This section may not be construed to limit a local district from obtaining relief to which it may be entitled under other applicable statute or cause of action.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-905. Right of entry on premises of water user.

A person authorized by a local district that provides a service from a water system or sewer system may enter upon a premise furnished with or provided that water service or sewer service to:

(1) examine an apparatus related to or used by the water system or sewer system;

(2) examine the amount of water used or wastewater discharged by the water system or sewer system and the manner of use or discharge; or

(3) make a necessary shutoff for vacancy, delinquency, or a violation of a local district rule or regulation relating to the water service or sewer service.

Enacted by Chapter 106, 2011 General Session

17B-1-906. Extraterritorial supply of surplus.

If a local district runs a surplus product or surplus capacity of a service that the local district is authorized to provide under Section 17B-1-202, the local district may sell or deliver the product or service to others beyond the local district boundaries.

Enacted by Chapter 106, 2011 General Session

17B-1-1001. Provisions applicable to property tax levy.

(1) Each local district that levies and collects property taxes shall levy and collect them according to the provisions of Title 59, Chapter 2, Property Tax Act.

(2) As used in this section, "elected official" means a local district board of trustees member who:

(a) is elected to the board of trustees by local district voters at an election held for that purpose, including a member elected under Subsection (4);

(b) holds, at the time of appointment to the board of trustees, an elected position with a municipality, county, or another local district that is partially or completely included within the boundaries of the local district;

(c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f);
or

(d) is considered to be elected in accordance with Subsection 17B-1-306(4)(g).

(3) (a) Except as provided in Subsection (3)(b), a local district may not levy or collect property tax revenue that exceeds the certified tax rate during a taxable year that begins on or after January 1, 2011.

(b) Notwithstanding Subsection (3)(a), a local district may levy or collect property tax revenue that exceeds the certified tax rate during a taxable year that begins on or after January 1, 2011, if:

(i) and to the extent that the revenue from the property tax was pledged before January 1, 2011, to pay for bonds or other obligations of the local district;

(ii) the members of the board of trustees are all elected officials;

(iii) the majority of the board of trustees are elected officials; or

(iv) the proposed tax or increase in the property tax rate has been approved by:

(A) a majority of the registered voters within the local district at an election held for that purpose on a date specified in Section 20A-1-204;

(B) the legislative body of the appointing authority; or

(C) the legislative body of:

(I) a majority of the municipalities partially or completely included within the boundary of the specified local district; or

(II) the county in which the specified local district is located, if the county has some or all of its unincorporated area included within the boundary of the specified local district.

(4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts, and for purposes of Subsection (3)(b), members of the board of trustees of a local district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the local district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) Subsections (2), (3), and (4) do not apply to:

(a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

- (b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or
- (c) a local district in which:
 - (i) the board of trustees consists solely of:
 - (A) land owners or the land owners' agents; or
 - (B) as described in Subsection 17B-1-302(1)(c), land owners or the land owners' agents or officers; and
 - (ii) there are no residents within the local district at the time a property tax is levied.

Amended by Chapter 415, 2013 General Session

17B-1-1002. Limit on local district property tax levy -- Exclusions.

(1) The rate at which a local district levies a property tax for district operation and maintenance expenses on the taxable value of taxable property within the district may not exceed:

- (a) .0008, for a basic local district;
- (b) .0004, for a cemetery maintenance district;
- (c) .0004, for a drainage district;
- (d) .0008, for a fire protection district;
- (e) .0008, for an improvement district;
- (f) .0005, for a metropolitan water district;
- (g) .0004, for a mosquito abatement district;
- (h) .0004, for a public transit district;
- (i) (i) .0023, for a service area that:
 - (A) is located in a county of the first or second class; and
 - (B) (I) provides fire protection, paramedic, and emergency services; or
 - (II) subject to Subsection (3), provides law enforcement services; or
- (ii) .0014, for each other service area; or
- (j) the rates provided in Section 17B-2a-1006, for a water conservancy district.

(2) Property taxes levied by a local district are excluded from the limit applicable to that district under Subsection (1) if the taxes are:

- (a) levied under Section 17B-1-1103 by a local district, other than a water conservancy district, to pay principal of and interest on general obligation bonds issued by the district;
- (b) levied to pay debt and interest owed to the United States; or
- (c) levied to pay assessments or other amounts due to a water users association or other public cooperative or private entity from which the district procures water.

(3) A service area described in Subsection (1)(i)(i)(B)(II) may not collect a tax described in Subsection (1)(i)(i) if a municipality or a county having a right to appoint a member to the board of trustees of the service area under Subsection 17B-2a-905(2) assesses on or after November 30 in the year in which the tax is first collected and each subsequent year that the tax is collected:

- (a) a generally assessed fee imposed under Section 17B-1-643 for law enforcement services; or
- (b) any other generally assessed fee for law enforcement services.

Amended by Chapter 282, 2011 General Session

17B-1-1101. Provisions applicable to a local district's issuance of bonds.

Subject to the provisions of this part:

- (1) each local district that issues bonds shall:
 - (a) issue them as provided in, as applicable:
 - (i) Title 11, Chapter 14, Local Government Bonding Act; or
 - (ii) Title 11, Chapter 42, Assessment Area Act; and
 - (b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act; and
- (2) each local district that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Amended by Chapter 360, 2008 General Session

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject, for a water conservancy district, to the property tax levy limits of Section 17B-2a-1006.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

- (i) .05, for a basic local district;
- (ii) .004, for a cemetery maintenance district;
- (iii) .002, for a drainage district;
- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;
- (vii) .1, for a metropolitan water district;
- (viii) .0004, for a mosquito abatement district;
- (ix) .03, for a public transit district; or
- (x) .12, for a service area.

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local

district that participates in the agreement creating the administrative or legal entity.

Enacted by Chapter 329, 2007 General Session

17B-1-1103. Levy to pay for general obligation bonds.

(1) (a) If a district has issued general obligation bonds, or expects to have debt service payments due on general obligation bonds during the current year, the district's board of trustees may make an annual levy of ad valorem property taxes in order to:

(i) pay the principal of and interest on the general obligation bonds;
(ii) establish a sinking fund for defaults and future debt service on the general obligation bonds; and

(iii) establish a reserve to secure payment of the general obligation bonds.

(b) A levy under Subsection (1)(a) is:

(i) for a water conservancy district, subject to the limit stated in Section 17B-2a-1006; and

(ii) for each other local district, without limitation as to rate or amount.

(2) (a) Each district that levies a tax under Subsection (1) shall:

(i) levy the tax as a separate and special levy for the specific purposes stated in Subsection (1); and

(ii) apply the proceeds from the levy solely for the purpose of paying the principal of and interest on the general obligation bonds, even though the proceeds may be used to establish or replenish a sinking fund under Subsection (1)(a)(ii) or a reserve under Subsection (1)(a)(iii).

(b) A levy under Subsection (2)(a) is not subject to a priority in favor of a district obligation in existence at the time the bonds were issued.

Amended by Chapter 360, 2008 General Session

17B-1-1104. Pledge of revenues to pay for bonds.

Bonds may be payable from and secured by the pledge of all or any specified part of:

(1) the revenues to be derived by the district from providing its services and from the operation of its facilities and other properties;

(2) sales and use taxes, property taxes, and other taxes;

(3) federal, state, or local grants;

(4) in the case of special assessment bonds, the special assessments pledged to repay the special assessment bonds; and

(5) other money legally available to the district.

Amended by Chapter 360, 2008 General Session

17B-1-1105. Revenue bonds -- Requirement to impose rates and charges to cover revenue bonds -- Authority to make agreements and covenants to provide for bond repayment.

(1) A local district intending to issue revenue bonds may, but is not required to, submit to district voters for their approval the issuance of the revenue bonds at an

election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) Each local district that has issued revenue bonds shall impose rates and charges for the services or commodities it provides fully sufficient, along with other sources of district revenues, to carry out all undertakings of the district with respect to its revenue bonds.

(3) A local district that issues revenue bonds may:

(a) agree to pay operation and maintenance expenses of the district from the proceeds of the ad valorem taxes authorized in Subsection 17B-1-103(2)(g); and

(b) for the benefit of bondholders, enter into covenants that:

(i) are permitted by Title 11, Chapter 14, Local Government Bonding Act; and

(ii) provide for other pertinent matters that the board of trustees considers proper to assure the marketability of the bonds.

Enacted by Chapter 329, 2007 General Session

17B-1-1106. Board of trustees required to fix rates to cover district expenses and bonds.

The board of trustees shall fix the rate or rates for services or commodities provided by the district that will, in conjunction with the proceeds of any maintenance and operation tax and other district revenues:

(1) pay the district's operating expenses;

(2) provide for repairs and depreciation of works owned or operated by the district;

(3) pay the interest on any bonds issued by the district; and

(4) provide, as much as practicable, a sinking or other fund to pay the principal of the bonds as they become due.

Enacted by Chapter 329, 2007 General Session

17B-1-1107. Ratification of previously issued bonds and previously entered contracts.

All bonds issued or contracts entered into by a local district before April 30, 2007 are ratified, validated, and confirmed and declared to be valid and legally binding obligations of the district in accordance with their terms.

Enacted by Chapter 329, 2007 General Session

17B-1-1201. Definitions.

As used in this part:

(1) "Eligible function" means:

(a) a power conferred on a local district under this title;

(b) a tax or assessment levied by a local district;

(c) an act or proceeding that a local district:

(i) has taken; or

(ii) contemplates taking; or

(d) a district contract, whether already executed or to be executed in the future, including a contract for the acquisition, construction, maintenance, or operation of works for the district.

(2) "Validation order" means a court order adjudicating the validity of an eligible function.

(3) "Validation petition" means a petition requesting a validation order.

(4) "Validation proceedings" means judicial proceedings occurring in district court pursuant to a validation petition.

Enacted by Chapter 329, 2007 General Session

17B-1-1202. Authority to file a validation petition -- Petition requirements -- Amending or supplementing a validation petition.

(1) The board of trustees of a local district may at any time file a validation petition.

(2) Each validation petition shall:

(a) describe the eligible function for which a validation order is sought;

(b) set forth:

(i) the facts upon which the validity of the eligible function is founded; and

(ii) any other information or allegations necessary to a determination of the validation petition;

(c) be verified by the chair of the board of trustees; and

(d) be filed in the district court of the county in which the district's principal office is located.

(3) A local district may amend or supplement a validation petition:

(a) at any time before the hearing under Section 17B-1-1203; or

(b) after the hearing under Section 17B-1-1203, with permission of the court.

Enacted by Chapter 329, 2007 General Session

17B-1-1203. Hearing on a validation petition.

(1) Upon the filing of a validation petition, the district court shall enter an order setting a date, time, and place for a hearing on the validation petition.

(2) A hearing under Subsection (1) may not be held less than 21 days after the filing of the validation petition.

Enacted by Chapter 329, 2007 General Session

17B-1-1204. Notice of the hearing on a validation petition -- Amended or supplemented validation petition.

(1) Upon the entry of an order under Section 17B-1-1203 setting a hearing on a validation petition, the local district that filed the petition shall:

(a) publish notice:

(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal office of the district is located; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for three

weeks immediately before the hearing; and

(b) post notice in its principal office at least 21 days before the date set for the hearing.

(2) Each notice under Subsection (1) shall:

(a) state the date, time, and place of the hearing on the validation petition;

(b) include a general description of the contents of the validation petition; and

(c) if applicable, state the location where a complete copy of a contract that is the subject of the validation petition may be examined.

(3) If a district amends or supplements a validation petition under Subsection 17B-1-1202(3) after publishing and posting notice as required under Subsection (1), the district is not required to publish or post notice again unless required by the court.

Amended by Chapter 90, 2010 General Session

17B-1-1205. Property owner or interested person may appear in validation proceedings -- Failure to appear.

(1) An owner of property within the district or a person interested in a contract or proposed contract that is the subject of a validation petition may appear and answer or otherwise plead in response to the validation petition:

(a) at any time before the hearing under Section 17B-1-1203; or

(b) within any additional period of time that the district court allows.

(2) If a person fails to appear and answer or otherwise plead in the time allowed under Subsection (1):

(a) the allegations of the validation petition shall be considered admitted by that person; and

(b) that person may not participate in the validation proceedings.

Enacted by Chapter 329, 2007 General Session

17B-1-1206. Validation petition hearing -- Validation proceedings.

(1) At each validation petition hearing, the court shall determine all matters and issues affecting the questions raised by the validation petition.

(2) The district court shall:

(a) advance each matter pertaining to validation proceedings as a matter of immediate public interest and concern; and

(b) hear each matter pertaining to validation proceedings at the earliest practicable moment.

(3) The district court shall disregard each error, irregularity, or omission that does not affect the substantial rights of the parties.

(4) Except as otherwise specified in this part, the Utah Rules of Civil Procedure shall govern validation proceedings in matters of pleading and practice before the district court.

Enacted by Chapter 329, 2007 General Session

17B-1-1207. Findings, conclusions, and judgment -- Costs -- Effect of

judgment -- Appeal.

(1) After the hearing under Section 17B-1-1203 on a validation petition, the district court shall:

- (a) make and enter written findings of fact and conclusions of law; and
- (b) render a judgment as warranted.

(2) A district court may apportion costs among the parties as the court determines appropriate.

(3) A district court judgment adjudicating matters raised by a validation petition:

(a) is binding and conclusive as to the local district and all other parties to the validation proceedings; and

(b) constitutes a permanent injunction against any action or proceeding to contest any matter adjudicated in the validation proceedings.

(4) (a) Each appeal of a final judgment in validation proceedings shall be filed with the Supreme Court.

(b) An appeal of a final judgment in validation proceedings may be filed only by a party to the validation proceedings.

(c) The appellate court hearing an appeal under this section shall expedite the hearing of the appeal.

Enacted by Chapter 329, 2007 General Session

17B-1-1301. Definitions.

For purposes of this part:

(1) "Active" means, with respect to a local district, that the district is not inactive.

(2) "Administrative body" means:

(a) if the local district proposed to be dissolved has a duly constituted board of trustees in sufficient numbers to form a quorum, the board of trustees; or

(b) except as provided in Subsection (2)(a):

(i) for a local district located entirely within a single municipality, the legislative body of that municipality;

(ii) for a local district located in multiple municipalities within the same county or at least partly within the unincorporated area of a county, the legislative body of that county; or

(iii) for a local district located within multiple counties, the legislative body of the county whose boundaries include more of the local district than is included within the boundaries of any other county.

(3) "Clerk" means:

(a) the board of trustees if the board is also the administrative body under Subsection (2)(a);

(b) the clerk or recorder of the municipality whose legislative body is the administrative body under Subsection (2)(b)(i); or

(c) the clerk of the county whose legislative body is the administrative body under Subsection (2)(b)(ii) or (iii).

(4) "Inactive" means, with respect to a local district, that during the preceding three years the district has not:

(a) provided any service or otherwise operated;

- (b) received property taxes or user or other fees; and
- (c) expended any funds.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-1302. Local district dissolution.

A local district may be dissolved as provided in this part.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-1303. Initiation of dissolution process.

The process to dissolve a local district may be initiated by:

- (1) for an inactive local district:
 - (a) (i) for a local district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, a petition signed by the owners of 25% of the acre-feet of water allotted to the land within the local district; or
 - (ii) for all other districts:
 - (A) a petition signed by the owners of private real property that:
 - (I) is located within the local district proposed to be dissolved;
 - (II) covers at least 25% of the private land area within the local district; and
 - (III) is equal in assessed value to at least 25% of the assessed value of all private real property within the local district; or
 - (B) a petition signed by registered voters residing within the local district proposed to be dissolved equal in number to at least 25% of the number of votes cast in the district for the office of governor at the last regular general election before the filing of the petition; or
 - (b) a resolution adopted by the administrative body; and
- (2) for an active local district, a petition signed by:
 - (a) for a local district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, a petition signed by the owners of 100% of the acre-feet of water allotted to the land within the local district; or
 - (b) for all other districts, the owners of 100% of the private real property located within or 100% of registered voters residing within the local district proposed to be dissolved.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-1304. Petition requirements.

- (1) Each petition under Subsection 17B-1-1303(1)(a) or (2) shall:
 - (a) indicate the typed or printed name and current residence address of each owner of acre-feet of water, property owner, or registered voter signing the petition;
 - (b) if it is a petition signed by the owners of acre-feet of water or property owners, indicate the address of the property as to which the owner is signing;
 - (c) designate up to three signers of the petition as sponsors, one of whom shall be designated the contact sponsor, with the mailing address and telephone number of each; and

(d) be filed with the clerk.

(2) A signer of a petition to dissolve a local district may withdraw, or, once withdrawn, reinstate the signer's signature at any time until 30 days after the public hearing under Section 17B-1-1306.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-1305. Petition certification.

(1) Within 30 days after the filing of a petition under Subsection 17B-1-1303(1)(a) or (2), the clerk shall:

(a) with the assistance of officers of the county in which the local district is located from whom the clerk requests assistance, determine whether the petition meets the requirements of Section 17B-1-1303 and Subsection 17B-1-1304(1); and

(b) (i) if the clerk determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the clerk determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) (a) If the clerk rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (2)(a).

(3) The clerk shall process an amended petition filed under Subsection (2)(a) in the same manner as an original petition under Subsection (1).

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-1306. Public hearing.

(1) For each petition certified under Section 17B-1-1305 and each resolution adopted under Subsection 17B-1-1303(1)(b), the administrative body shall hold a public hearing on the proposed dissolution.

(2) Each public hearing under Subsection (1) shall be held:

(a) no later than 45 days after certification of the petition under Section 17B-1-1305 or adoption of a resolution under Subsection 17B-1-1303(1)(b), as the case may be;

(b) within the local district proposed to be dissolved;

(c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.;
and

(d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed dissolution and issues raised by it; and

(ii) any interested person to address the administrative body concerning the proposed dissolution.

(3) A quorum of the administrative body shall be present throughout each public

hearing under this section.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-1-1307. Notice of public hearing and of dissolution.

(1) Before holding a public hearing required under Section 17B-1-1306, the administrative body shall:

(a) (i) publish notice of the public hearing and of the proposed dissolution:

(A) in a newspaper of general circulation within the local district proposed to be dissolved; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for 30 days before the public hearing; and

(ii) post notice of the public hearing and of the proposed dissolution in at least four conspicuous places within the local district proposed to be dissolved, no less than five and no more than 30 days before the public hearing; or

(b) mail a notice to each owner of property located within the local district and to each registered voter residing within the local district.

(2) Each notice required under Subsection (1) shall:

(a) identify the local district proposed to be dissolved and the service it was created to provide; and

(b) state the date, time, and location of the public hearing.

Amended by Chapter 90, 2010 General Session

17B-1-1308. Dissolution resolution -- Limitations on dissolution -- Distribution of remaining assets -- Notice to lieutenant governor -- Recording requirements.

(1) After the public hearing required under Section 17B-1-1306 and subject to Subsection (2), the administrative body may adopt a resolution approving dissolution of the local district.

(2) A resolution under Subsection (1) may not be adopted unless:

(a) any outstanding debt of the local district is:

(i) satisfied and discharged in connection with the dissolution; or

(ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the local district;

(b) for a local district that has provided service during the preceding three years or undertaken planning or other activity preparatory to providing service:

(i) another entity has committed to provide the same service to the area being served or proposed to be served by the local district; and

(ii) all who are to receive the service have consented to the service being provided by the other entity; and

(c) all outstanding contracts to which the local district is a party are resolved through mutual termination or the assignment of the district's rights, duties, privileges, and responsibilities to another entity with the consent of the other parties to the contract.

(3) (a) (i) Any assets of the local district remaining after paying all debts and

other obligations of the local district shall be used to pay costs associated with the dissolution process under this part.

(ii) Any costs of the dissolution process remaining after exhausting the remaining assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.

(b) Any assets of the local district remaining after application of Subsection (3)(a) shall be distributed:

(i) proportionately to the owners of real property within the dissolved local district if there is a readily identifiable connection between a financial burden borne by the real property owners in the district and the remaining assets; or

(ii) except as provided in Subsection (3)(b)(i), to each county, city, or town in which the dissolved local district was located before dissolution in the same proportion that the land area of the local district located within the unincorporated area of the county or within the city or town bears to the total local district land area.

(4) (a) The administrative body shall:

(i) within 30 days after adopting a resolution approving dissolution, file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5:

(A) if the local district was located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action; and

(Bb) certificate of dissolution; and

(II) a certified copy of the resolution adopted under Subsection (1); or

(B) if the local district was located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb); and

(Bb) a certified copy of the resolution adopted under Subsection (1); and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb); and

(Bb) a certified copy of the resolution adopted under Subsection (1).

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the local district is dissolved.

Amended by Chapter 350, 2009 General Session

17B-1-1401. Status of and provisions applicable to a basic local district.

A basic local district:

(1) operates under, is subject to, and has the powers set forth in this chapter;
and

(2) is not subject to Chapter 2a, Provisions Applicable to Different Types of

Local Districts.

Enacted by Chapter 329, 2007 General Session

17B-1-1402. Board of trustees of a basic local district.

(1) As specified in a petition under Subsection 17B-1-203(1)(a) or (b) or a resolution under Subsection 17B-1-203(1)(d) or (e), and except as provided in Subsection (2), the members of a board of trustees of a basic local district may be:

(a) (i) elected by registered voters; or
(ii) appointed by the responsible body, as defined in Section 17B-1-201; or
(b) if the area of the local district contains less than one residential dwelling unit per 50 acres of land at the time the resolution is adopted or the petition is filed, elected by the owners of real property within the local district based on:

(i) the amount of acreage owned by property owners;
(ii) the assessed value of property owned by property owners; or
(iii) water rights:
(A) relating to the real property within the local district;
(B) that the real property owner:
(I) owns; or
(II) has transferred to the local district.

(2) As specified in a groundwater right owner petition under Subsection 17B-1-203(1)(c) or a resolution under Subsection 17B-1-203(1)(d) or (e), the members of a board of trustees of a basic local district created to manage groundwater rights the district acquires or assesses under Section 17B-1-202 shall be:

(a) subject to Section 17B-1-104.5, elected by the owners of groundwater rights that are diverted within the local district;

(b) appointed by the responsible body, as defined in Section 17B-1-201; or
(c) elected or appointed as provided in Subsection (3).

(3) A petition under Subsection 17B-1-203(1)(a) or (b) and a resolution under Subsection 17B-1-203(1)(d) or (e) may provide for a transition from one or more methods of election or appointment under Subsection (1) or (2) to one or more other methods of election or appointment based upon milestones or events that the petition or resolution identifies.

Amended by Chapter 68, 2011 General Session

17B-2a-101. Title.

(1) This chapter is known as "Provisions Applicable to Different Types of Local Districts."

(2) This part is known as the "Cemetery Maintenance District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-102. Provisions applicable to cemetery maintenance districts.

(1) Each cemetery maintenance district is governed by and has the powers stated in:

- (a) this part; and
- (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to cemetery maintenance districts.
- (3) A cemetery maintenance district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-103. Limits on the creation of a cemetery maintenance district.

A cemetery maintenance district may not be created in a city of the first or second class.

Enacted by Chapter 329, 2007 General Session

17B-2a-104. Cemetery maintenance district bonding authority.

A cemetery maintenance district may issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-105. Additional duties of a cemetery maintenance district board of trustees.

In addition to the powers and duties of a board of trustees under Chapter 1, Part 3, Board of Trustees, each cemetery maintenance district board of trustees shall beautify, improve, and maintain each cemetery within the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-106. Appointment of board of trustees members -- Vacancies.

(1) If the area of a cemetery maintenance district is included entirely within the boundaries of a single municipality, each member of its board of trustees shall be appointed and each vacancy on the board of trustees shall be filled by a person appointed by the legislative body of that municipality, as provided in Section 17B-1-304.

(2) For each other cemetery maintenance district, each member of its board of trustees shall be appointed and each vacancy on the board of trustees shall be filled by a person appointed by the legislative body of the county in which the district is located, as provided in Section 17B-1-304.

Enacted by Chapter 329, 2007 General Session

17B-2a-107. Property within a cemetery maintenance district to be proportionately benefitted and equally assessed.

Each parcel of property within a cemetery maintenance district shall be:

- (1) benefitted by the creation of the district and by improvements made by the

district, ratably with all other parcels of property within the district in proportion to the parcel's taxable value; and

(2) assessed equally in proportion to its taxable value for the purpose of cemetery improvement and maintenance.

Enacted by Chapter 329, 2007 General Session

17B-2a-201. Title.

This part is known as the "Drainage District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-202. Definitions.

As used in this part:

(1) "Ditch" includes a drain or natural or constructed watercourse, whether open, covered, or tiled, and whether inside or outside the drainage district.

(2) "Drainage" includes the reclamation, protection, or betterment of land by leading, carrying, withholding, or pumping excess water from land through canals, ditches, pipes, or other means.

Enacted by Chapter 329, 2007 General Session

17B-2a-203. Provisions applicable to drainage districts.

(1) Each drainage district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to drainage districts.

(3) A drainage district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-204. Prohibition against creating a drainage district.

No new drainage district may be created.

Enacted by Chapter 329, 2007 General Session

17B-2a-205. Additional drainage district powers.

In addition to the powers conferred on a drainage district under Section 17B-1-103, a drainage district may:

(1) enter upon land for the purpose of examining the land or making a survey;

(2) locate a necessary drainage canal with any necessary branches on land that the district's board of trustees considers best;

(3) issue bonds as provided in and subject to Chapter 1, Part 11, Local District

Bonds, to carry out the purposes of the district;

(4) after the payment or tender of compensation allowed, go upon land to construct proposed works, and thereafter enter upon that land to maintain or repair the works;

(5) appropriate water for useful and beneficial purposes;

(6) regulate and control, for the benefit of landholders within the district, all water developed, appropriated, or owned by the district;

(7) appropriate, use, purchase, develop, sell, and convey water and water rights in the same manner and for the same use and purposes as a private person;

(8) widen, straighten, deepen, enlarge, or remove any obstruction or rubbish from any watercourse, whether inside or outside the district; and

(9) if necessary, straighten a watercourse by cutting a new channel upon land not already containing the watercourse, subject to the landowner receiving compensation for the land occupied by the new channel and for any damages, as provided under the law of eminent domain.

Enacted by Chapter 329, 2007 General Session

17B-2a-206. Drainage district board of trustees.

(1) Subject to Subsection (2), each member of the board of trustees of a drainage district shall be appointed by the legislative body of the county in which the district is located.

(2) If a drainage district is located in more than one county, a county legislative body may not appoint more than two members.

Enacted by Chapter 329, 2007 General Session

17B-2a-207. Public highways, roads, or streets or railroad rights-of-way benefitted by district works.

If a drainage district board of trustees determines that a public highway, road, street, or railroad right-of-way is or will be benefitted by district drainage canals or other works that have been or will be constructed:

(1) the district shall assess benefits and taxes against the public highway, road, street, or railroad right-of-way in the same manner as if the highway, road, street, or railroad right-of-way were in private ownership;

(2) the district may treat the highway, road, street, or railroad right-of-way the same as it would treat private land; and

(3) the state or local entity having control of the public highway, road, or street or the owner of the railroad right-of-way shall pay the applicable taxes assessed against the land, whether or not it owns the fee simple title to the land covered by the highway, road, street, or railroad right-of-way.

Enacted by Chapter 329, 2007 General Session

17B-2a-208. Bridge or culvert across a public highway, road, or street, or a railroad right-of-way -- Notice to railway authority -- Option of railway authority to

construct bridge or culvert.

(1) (a) A drainage district may construct each necessary bridge and culvert across or under a public highway, road, street, or railroad right-of-way to enable the district to construct and maintain a canal, drain, or ditch necessary as part of the drainage system of the district.

(b) Before a drainage district constructs a bridge or culvert across or under a railroad right-of-way, the district shall first give notice to the railway authority empowered to build or construct bridges and culverts.

(2) (a) A railway authority may, within 30 days after the notice under Subsection (1)(b) and at its own expense, build the bridge or culvert according to its own plans.

(b) Each railway authority that builds a bridge or culvert as provided in Subsection (2)(a) shall construct the bridge or culvert:

(i) so as not to interfere with the free and unobstructed flow of water passing through the canal or drain; and

(ii) at points that are indicated by a competent drainage engineer.

Enacted by Chapter 329, 2007 General Session

17B-2a-209. State land treated the same as private land -- Consent needed to affect school and institutional trust land -- Owner of state land has same rights as owner of private land.

(1) Subject to Subsection (2), a drainage district may treat state land the same as private land with respect to the drainage of land for agricultural purposes.

(2) A drainage district may not affect school or institutional trust land under this part or Chapter 1, Provisions Applicable to All Local Districts, without the consent of the director of the School and Institutional Trust Lands Administration acting in accordance with Sections 53C-1-102 and 53C-1-303.

(3) The state and each person holding unpatented state land under entries or contracts of purchase from the state have all the rights, privileges, and benefits under this part and Chapter 1, Provisions Applicable to All Local Districts, that a private owner of that land would have.

Enacted by Chapter 329, 2007 General Session

17B-2a-210. District required to minimize damage when entering on land -- Penalty for preventing or prohibiting a district from entering on land.

(1) When entering upon land for the purpose of constructing, maintaining, or repairing works, a drainage district may not do more damage than the necessity of the occasion requires.

(2) (a) A person who willfully prevents or prohibits an agent of a drainage district from entering upon land when the district is authorized to enter the land is guilty of a class C misdemeanor.

(b) (i) Each person found guilty under Subsection (2)(a) shall be fined a sum not to exceed \$25 per day for each day the person prevented or prohibited the district from entering upon land.

(ii) Each fine under Subsection (2)(b)(i) shall be paid to the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-211. Penalty for wrongfully damaging a district work.

(1) A person who wrongfully and purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, or other work of a drainage district is guilty of a class C misdemeanor.

(2) Each person who negligently, wrongfully, or purposely fills, cuts, injures, destroys, or impairs the usefulness of a drain, ditch, levee, or other work of a drainage district or obstructs or fills any natural stream or outlet used by a drainage district, whether inside or outside the district, shall be liable to the district for all resulting damages.

Enacted by Chapter 329, 2007 General Session

17B-2a-301. Title.

This part is known as the "Fire Protection District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-302. Prohibition against creating new fire protection districts.

No new fire protection district may be created.

Enacted by Chapter 329, 2007 General Session

17B-2a-303. Provisions applicable to fire protection districts.

(1) Each fire protection district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to fire protection districts.

(3) A fire protection district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-304. Additional fire protection district power.

In addition to the powers conferred on a fire protection district under Section 17B-1-103, a fire protection district may issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-305. Fire protection districts board of trustees -- Board of a countywide district -- Validation of previous boards.

(1) Except as provided in Subsection (2), the board of trustees of a fire protection district may be appointed or elected, as provided in the documents establishing the district.

(2) If the area of a fire protection district consists of all the area of a single county excluding the area of all first and second class cities in the county, the legislative body of that county shall constitute the board of trustees of the fire protection district.

(3) The composition and method of appointing or electing board of trustees members of each fire protection district existing on April 30, 2007 are validated, ratified, and confirmed.

Enacted by Chapter 329, 2007 General Session

17B-2a-306. Offices of a fire protection district board of trustees and principal place of business.

Each office of a fire protection district board of trustees and each principal place of business of a fire protection district shall be within:

- (1) the district; or
- (2) the county in which the district is located and as near as possible to the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-401. Title.

This part is known as the "Improvement District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-402. Provisions applicable to improvement districts.

- (1) Each improvement district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to improvement districts.
- (3) An improvement district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-403. Additional improvement district powers.

- (1) In addition to the powers conferred on an improvement district under Section 17B-1-103, an improvement district may:
 - (a) acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and may operate all or any part of:
 - (i) a system for the supply, treatment, and distribution of water;
 - (ii) a system for the collection, treatment, and disposition of sewage;

- (iii) a system for the collection, retention, and disposition of storm and flood waters;
- (iv) a system for the generation, distribution, and sale of electricity, subject to Section 17B-2a-406; and
- (v) a system for the transmission of natural or manufactured gas if the system is:
 - (A) connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, regulated under Section 54-4-1; and
 - (B) to be used to facilitate gas utility service within the district if the gas utility service is not available within the district prior to the acquisition or construction of the system;
- (b) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- (c) appropriate or otherwise acquire water and water rights inside or outside its boundaries;
- (d) sell water or other services to consumers residing outside its boundaries;
- (e) enter into a contract with a gas corporation regulated under Section 54-4-1 to provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas or to lease or sell all or a portion of that system to a gas corporation;
- (f) enter into a contract with a person for:
 - (i) the purchase or sale of water or electricity;
 - (ii) the use of any facility owned by the person; or
 - (iii) the purpose of handling the person's industrial and commercial waste and sewage;
- (g) require pretreatment of industrial and commercial waste and sewage; and
- (h) impose a penalty or surcharge against a public entity or other person with which the district has entered into a contract for the construction, acquisition, or operation of all or a part of a system for the collection, treatment, and disposal of sewage, if the public entity or other person fails to comply with the provisions of the contract.

(2) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.

(3) An improvement district may not begin to provide sewer service to an area where sewer service is already provided by an existing sewage collection system operated by a municipality or other political subdivision unless the municipality or other political subdivision gives its written consent.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-2a-404. Improvement district board of trustees.

- (1) As used in this section:
 - (a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.
 - (b) "County member" means a member of a board of trustees of a county district.
 - (c) "Electric district" means an improvement district that was created for the

purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (4)(a)(i).

(b) Except as provided in Subsection (5), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(5) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

- (b) the district holds an election to approve the district's issuance of bonds;
 - (c) for a regular district, an included municipality elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees; or
 - (d) (i) at least 90 days before the municipal general election, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and
 - (ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.
- (6) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:
- (a) the number of included municipalities within the district, if:
 - (i) the number is an odd number; and
 - (ii) the district does not include a remaining area;
 - (b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and
 - (c) the number of included municipalities plus two, if:
 - (i) the number of included municipalities is odd; and
 - (ii) the district includes a remaining area.
- (7) (a) Except as provided in Subsection (7)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.
- (b) Notwithstanding Subsection (7)(a) and subject to Subsection (7)(c), each remaining area member shall be chosen from the district at large if:
- (i) the population of the remaining area is less than 5% of the total district population; or
 - (ii) (A) the population of the remaining area is less than 50% of the total district population; and
 - (B) the majority of the members of the board of trustees are remaining area members.
- (c) Application of Subsection (7)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.
- (8) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (5)(b):
- (a) a person may file a declaration of candidacy if:
 - (i) the person resides within:
 - (A) the remaining area, for a regular district; or
 - (B) the county district, for a county district; and
 - (ii) otherwise qualifies as a candidate;
 - (b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and
 - (c) the election shall otherwise be governed by Title 20A, Election Code.
- (9) (a) (i) This Subsection (9) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (8) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (9)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Amended by Chapter 97, 2012 General Session

17B-2a-405. Board of trustees of certain sewer improvement districts.

(1) As used in this section:

(a) "Jurisdictional boundaries" means:

(i) for a qualified county, the boundaries that include:

(A) the area of the unincorporated part of the county that is included within a sewer improvement district; and

(B) the area of each nonappointing municipality that is included within the sewer improvement district; and

(ii) for a qualified municipality, the boundaries that include the area of the municipality that is included within a sewer improvement district.

(b) "Nonappointing municipality" means a municipality that:

(i) is partly included within a sewer improvement district; and

(ii) is not a qualified municipality.

(c) "Qualified county" means a county:

(i) some or all of whose unincorporated area is included within a sewer improvement district; or

(ii) which includes within its boundaries a nonappointing municipality.

(d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).

(e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:

(i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and

(ii) more than half of:

(A) the municipality's land area; or

(B) the assessed value of all private real property within the municipality.

(f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).

(g) "Sewer improvement district" means an improvement district that:

(i) provides sewage collection, treatment, and disposal service; and
(ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.

(2) (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.

(b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d)(ii) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement district's board of trustees at a time when there is no vacancy on the board.

(3) (a) The board of trustees of each sewer improvement district shall consist of:

(i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and

(ii) at least one person but not more than three persons appointed by:

(A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or

(B) the county legislative body, for each other qualified county.

(b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.

(4) Notwithstanding Subsection 17B-1-302(2), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).

(5) Except as provided in this section, an appointment to the board of trustees of a sewer improvement district is governed by Section 17B-1-304.

(6) A quorum of a board of trustees of a sewer improvement district consists of members representing more than 50% of the total number of qualified county and qualified municipality votes under Subsection (7).

(7) (a) Subject to Subsection (7)(b), each qualified county and each qualified municipality is entitled to one vote on the board of trustees of a sewer improvement district for each \$10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of private real property taxable for district purposes within the respective jurisdictional boundaries, as shown by the assessment records of the county and evidenced by a certificate of the county auditor.

(b) Notwithstanding Subsection (7)(a), each qualified county and each qualified municipality shall have at least one vote.

(8) If a qualified county or qualified municipality appoints more than one board member, all the votes to which the qualified county or qualified municipality is entitled under Subsection (7) for an item of board business shall collectively be cast by a majority of the qualified county members or qualified municipal members, respectively, present at a meeting of the board of trustees.

Amended by Chapter 360, 2008 General Session

17B-2a-406. Improvement districts providing electric service -- Public

Service Commission jurisdiction -- Exceptions.

(1) As used in this section:

(a) "Commission" means the Public Service Commission of Utah established in Section 54-1-1.

(b) "Electric corporation" has the same meaning as defined in Section 54-2-1.

(c) "Electric improvement district" means an improvement district that provides electric service as authorized under Subsection 17B-2a-403(1)(a)(iv).

(d) "Stranded asset" means an asset that:

(i) an electric corporation owns and operates;

(ii) is designed to serve an area that is:

(A) within the electric corporation's certificated service area before the area is removed from the certificated service area by commission order as provided in Subsection (3)(b)(i)(B)(II); and

(B) within the boundary of an electric improvement district; and

(iii) will not be useful to or used by the electric corporation after removal of the area from the electric corporation's certificated service area.

(2) An electric improvement district is a public utility and subject to the jurisdiction of the commission.

(3) (a) Except as provided in Subsection (3)(b), an electric improvement district:

(i) may include only an area where:

(A) no retail electricity has been provided to commercial, industrial, residential, and other users of electricity from an investor-owned utility within any part of an area certificated by the commission or an area adjacent to that area, municipal agency, or electric cooperative within the five years immediately preceding September 1, 1985; and

(B) electric service is provided to at least one user of electricity within the electric service district as of September 1, 1985; and

(ii) shall have filed an application for certification and received approval by the commission by September 1, 1986.

(b) (i) An electric improvement district created after May 11, 2009 may provide electric service within the boundary of the improvement district if:

(A) no part of the boundary of the electric improvement district is closer than 40 miles to an existing service line of an electric corporation;

(B) (I) no part of the area within the boundary of the electric improvement district is within the certificated service area of an electric corporation; or

(II) the area within the boundary of the electric improvement district that is also within the certificated service area of an electric corporation is removed from the electric corporation's certificated service area by commission order in a proceeding initiated by a petition filed by and at the discretion of the electric corporation; and

(C) before January 1, 2010, the electric improvement district receives a certificate of public convenience and necessity from the commission authorizing the electric improvement district to provide electric service to the area within the boundary of the electric improvement district.

(ii) An electric improvement district that provides electric service as provided in Subsection (3)(b)(i) shall pay an electric corporation an amount equal to the fair market value of each stranded asset of the electric corporation.

(4) Nothing in this part may be construed to give the commission jurisdiction over:

- (a) an improvement district, other than an electric improvement district;
- (b) a municipality; or
- (c) an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an electric improvement district serves any customer, the electric improvement district shall obtain a certificate of public convenience and necessity from the commission.

(6) (a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:

- (i) the district is organized for the purpose of distributing electricity to customers within the boundary of the district on a not-for-profit basis;
- (ii) the schedule of new rates or other change that results in new rates has been approved by the board of trustees of the district;
- (iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and
- (iv) the district has filed the schedule of new rates or other change with the commission.

(b) The commission shall make the district's schedule of new rates or other change available for public inspection.

Amended by Chapter 384, 2009 General Session

17B-2a-501. Title.

This part is known as the "Irrigation District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-502. Provisions applicable to irrigation districts.

- (1) Each irrigation district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to irrigation districts.
- (3) An irrigation district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-503. Additional irrigation district powers -- No authority to levy property tax.

- (1) In addition to the powers conferred on an irrigation district under Section 17B-1-103, an irrigation district may:

- (a) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
 - (b) purchase stock of an irrigation, canal, or reservoir company;
 - (c) enter upon any land in the district to make a survey and to locate and construct a canal and any necessary lateral;
 - (d) convey water rights or other district property to the United States as partial or full consideration under a contract with the United States;
 - (e) pursuant to a contract with the United States, lease or rent water to private land, an entryman, or a municipality in the neighborhood of the district;
 - (f) if authorized under a contract with the United States, collect money on behalf of the United States in connection with a federal reclamation project and assume the incident duties and liabilities;
 - (g) acquire water from inside or outside the state;
 - (h) subject to Subsection (2), lease, rent, or sell water not needed by the owners of land within the district:
 - (i) to a municipality, corporation, association, or individual inside or outside the district;
 - (ii) for irrigation or any other beneficial use; and
 - (iii) at a price and on terms that the board considers appropriate; and
 - (i) repair a break in a reservoir or canal or remedy any other district disaster.
- (2) (a) The term of a lease or rental agreement under Subsection (1)(h) may not exceed five years.
- (b) A vested or prescriptive right to the use of water may not attach to the land because of a lease or rental of water under Subsection (1)(h).
- (3) Notwithstanding Subsection 17B-1-103(2)(g), an irrigation district may not levy a property tax.

Enacted by Chapter 329, 2007 General Session

17B-2a-504. Irrigation district board of trustees -- Bond for board of trustees members and district if the district is appointed as fiscal or other agent for the United States.

- (1) (a) One board of trustees member shall be elected from each division established as provided in Section 17B-2a-505.
- (b) Each landowner within an irrigation district may vote for one board of trustees member for the division in which the landowner's land is located.
- (c) Each landowner is entitled to cast one vote for each acre-foot or fraction of an acre-foot of water allotted to the land owned by the landowner.
- (2) (a) If an irrigation district is appointed fiscal agent of the United States or is authorized by the United States to collect money on behalf of the United States with respect to a federal project:
 - (i) each member of the district's board of trustees shall:
 - (A) execute an official bond in the amount required by the Secretary of the Interior, conditioned upon the faithful discharge of the trustee's duties; and
 - (B) file the official bond in the office of the clerk of the county in which the district is located; and

(ii) the irrigation district shall execute an additional bond for the district's faithful discharge of its duties as fiscal or other agent of the United States.

(b) The United States or any person injured by the failure of a member of the board of trustees or of the district to perform fully, promptly, and completely a duty may sue upon the official bond.

Enacted by Chapter 329, 2007 General Session

17B-2a-505. Divisions.

(1) The board of trustees of each irrigation district shall divide the district into divisions, each as nearly equal in size to the others as practicable.

(2) The number of divisions shall be equal to the number of board of trustees members.

(3) At least 30 days before an election of board of trustees members, the board shall redivide the district into divisions if, since the last time the board divided the district into divisions:

(a) the district has annexed land under Chapter 1, Part 4, Annexation;

(b) land has been withdrawn from the district under Chapter 1, Part 5, Withdrawal; or

(c) the number of board of trustees members has been changed.

Enacted by Chapter 329, 2007 General Session

17B-2a-506. Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.

(1) An irrigation district may:

(a) divide the district into units and apply different use charges to the different units; and

(b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.

(2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:

(a) the assessor of the county in which the land is located shall assist the irrigation district in ascertaining the identity of a parcel served by the district;

(b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and

(c) the treasurer of the county in which the land is located:

(i) shall:

(A) provide each landowner a notice of use charges as part of the annual tax notice as an additional charge separate from ad valorem taxes;

(B) collect, receive, and provide an accounting for all money belonging to the district from use charges; and

(C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and

(ii) may receive and account for use charges separately from taxes upon real

estate for county purposes.

(3) (a) A use charge described in Subsection (2)(b) shall become a lien on the land served as provided in Section 17B-1-902 except that the certification described in Subsection 17B-1-902(1)(a) is not required.

(b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.

(c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.

(4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Amended by Chapter 97, 2012 General Session

17B-2a-507. Right-of-way over state land.

Each irrigation district has a right-of-way on land that is or becomes the property of the state to locate, construct, and maintain district works.

Enacted by Chapter 329, 2007 General Session

17B-2a-508. Inclusion of state land in an irrigation district.

(1) State land that is not under a contract of sale may be included in an irrigation district upon petition by the state entity responsible for the administration of the land.

(2) State land included in an irrigation district may not be:

(a) assessed by the district; or

(b) the subject of use charges imposed by the district.

(3) The entity responsible for the administration of the state land to be included in an irrigation district and the state engineer shall make a thorough examination of the benefits to accrue to the land by its inclusion in the district and by the acquisition of water rights for the land.

(4) (a) The entity responsible for the administration of the state land to be included in an irrigation district may enter into a contract with the district, specifying the land benefitted and the amount of benefit, as determined under Subsection (3).

(b) Each contract under Subsection (4)(a) shall provide that the entity responsible for the administration of the state land shall make annual payments to the district, to be applied to the cost of constructing the district's irrigation works, until the full amount of the benefit is paid.

(c) The entity responsible for the administration of state land included in an irrigation district may, at its option, pay the full amount of the contract at any time.

Enacted by Chapter 329, 2007 General Session

17B-2a-509. State engineer not prohibited from increasing water allotment.

Nothing in this part may be construed to prohibit the state engineer, upon petition by an irrigation district board of trustees, from increasing the maximum allotment of water for one or more tracts of land within the district if the state engineer determines

that the land cannot be beneficially irrigated with the currently allotted water.

Enacted by Chapter 329, 2007 General Session

17B-2a-510. Rules for the distribution and use of water.

(1) Each irrigation district board of trustees shall establish equitable rules for the distribution and use of water among the owners of land in the district.

(2) The board of trustees of an irrigation district that establishes rules under Subsection (1) shall, as soon as the rules are adopted, print them in convenient form for distribution in the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-511. Distribution of water under a contract with the United States.

If an irrigation district acquires the right to use water under a contract with the United States, the district shall distribute and apportion water according to the contract and federal law, rules, and regulations.

Enacted by Chapter 329, 2007 General Session

17B-2a-512. Removal of land from the assessor's roll.

(1) An irrigation district may direct a county treasurer to remove parcels of land from the district's billing if:

(a) the land is publicly dedicated to a street, highway, or road; or
(b) the use of the land has so permanently changed as to prevent the beneficial use of water on it.

(2) Each county treasurer shall comply with the direction of an irrigation district under Subsection (1).

Enacted by Chapter 329, 2007 General Session

17B-2a-513. Temporary application of water to land.

(1) Upon the written application of the owner of land that has no water allotment or an insufficient water allotment, an irrigation district board of trustees may temporarily permit water to be applied to the land and charge the owner for that water.

(2) Subsection (1) may not be construed to affect an irrigation district's permanent water allotments.

Enacted by Chapter 329, 2007 General Session

17B-2a-514. Assignment of the right to water.

With the consent of the irrigation district board of trustees, a landowner in the district may assign the right to some or all of the water apportioned to the landowner's land for any one year to another bona fide landowner in the district for use in the district, if all charges for the water have been paid.

Enacted by Chapter 329, 2007 General Session

17B-2a-515. Distribution of water when supply is inadequate.

If an irrigation district's water supply is not sufficient to supply all the needs within the district, the board of trustees may distribute water as the board considers best for all concerned, subject to distribution and apportionment requirements of a district contract with the United States and applicable federal law, rule, and regulation.

Enacted by Chapter 329, 2007 General Session

17B-2a-516. Diversions of water subject to eminent domain law.

Nothing in this part may be construed to authorize any person to divert the water of a river, creek, stream, canal, or reservoir to the detriment of anyone having a prior right to the water, unless compensation is previously determined and paid according to the laws of eminent domain.

Enacted by Chapter 329, 2007 General Session

17B-2a-601. Title.

This part is known as the "Metropolitan Water District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-602. Provisions applicable to metropolitan water districts.

- (1) Each metropolitan water district is governed by and has the powers stated in:
 - (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to metropolitan water districts.
- (3) A metropolitan water district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-603. Additional metropolitan water district powers.

In addition to the powers conferred on a metropolitan water district under Section 17B-1-103, a metropolitan water district may:

- (1) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district or inside or outside the state;
- (2) encumber real or personal property or an interest in real or personal property that the district owns;
- (3) acquire or construct works, facilities, and improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district or inside or outside the state;

(4) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district or inside or outside the state, and encumber, transfer an interest in, or dispose of water, works, water rights, and sources of water;

(5) develop, store, and transport water;

(6) provide, sell, lease, and deliver water inside or outside the district for any lawful beneficial use;

(7) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district; and

(8) subscribe for, purchase, lease, or otherwise acquire stock in a canal company, irrigation company, water company, or water users association, for the purpose of acquiring the right to use water or water infrastructure.

Enacted by Chapter 329, 2007 General Session

17B-2a-604. Metropolitan water district board of trustees.

(1) Members of the board of trustees of a metropolitan water district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the metropolitan water district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (3)(a).

(2) (a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.

(b) If a district contains the area of a single municipality:

(i) the legislative body of that municipality shall appoint each member of the board of trustees; and

(ii) one member shall be the officer with responsibility over the municipality's water supply and distribution system, if the system is municipally owned.

(c) If a district contains some or all of the retail water service area of more than one municipality:

(i) the legislative body of each municipality shall appoint the number of members for that municipality as determined under Subsection (2)(c)(ii);

(ii) subject to Subsection (2)(c)(iii), the number of members appointed by each municipality shall be determined:

(A) by agreement between the metropolitan water district and the municipalities, subject to the maximum stated in Subsection 17B-1-302(2); or

(B) as provided in Chapter 1, Part 3, Board of Trustees; and

(iii) at least one member shall be appointed by each municipality.

(d) Each trustee shall be appointed without regard to partisan political affiliations from among citizens of the highest integrity, attainment, competence, and standing in the community.

(3) (a) Members of the board of trustees of a metropolitan water district shall be elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

(i) three-fourths of all members of the board of trustees of the metropolitan water district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (3)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(4) A member of the board of trustees of a metropolitan water district shall be:

(a) a registered voter;

(b) a property taxpayer; and

(c) a resident of:

(i) the metropolitan water district; and

(ii) the retail water service area of the municipality that:

(A) elects the member; or

(B) the member is appointed to represent.

(5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).

(b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.

(6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.

(7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

Amended by Chapter 159, 2010 General Session

17B-2a-605. Preferential rights of cities.

(1) Each city whose area is within a metropolitan water district and that provides water on a retail level within the district has a preferential right to purchase from the district a portion of the water served by the district.

(2) Except as otherwise provided by contract between a metropolitan water district and the city, the percentage of the total district water supply that a city has a preferential right to purchase under Subsection (1) is the same percentage as the total amount of taxes levied by the district against property within the city's retail water service area is of the total of all taxes levied by the district against all property within the district.

(3) (a) Nothing in this section may be construed to limit the ability of a metropolitan water district to establish preferential rights by contract with a city that has preferential rights under this section.

(b) Each agreement described in Subsection (3)(a) entered into before April 30, 2007 is ratified, validated, and confirmed.

Enacted by Chapter 329, 2007 General Session

17B-2a-606. Rates, charges, and assessments.

(1) (a) The board of trustees may fix the rates, charges, and assessments, from time to time, at which the district:

- (i) sells water; or
- (ii) charges for the treatment or transportation of water or for the dedication of water supplies or water treatment or conveyance capacities.

(b) The rates, charges, and assessments may be established by agreement between the district and the municipalities serviced by the district.

(2) Rates fixed under Subsection (1)(a) shall be equitable, although not necessarily equal or uniform, for like classes of service throughout the district.

(3) Each agreement described in Subsection (1)(b) entered into before April 30, 2007 that otherwise complies with the law is ratified, validated, and confirmed.

Enacted by Chapter 329, 2007 General Session

17B-2a-607. Contracts with other corporations.

(1) A metropolitan water district may:

(a) contract with one or more corporations, public or private, for the purpose of:

- (i) financing acquisitions, constructions, or operations of the district; or
- (ii) carrying out any of the district's powers;

(b) in a contract under Subsection (1)(a), obligate itself severally or jointly with the other corporation or corporations; and

(c) secure, guarantee, or become surety for the payment of an indebtedness or the performance of a contract or other obligation incurred or entered into by a corporation whose shares of stock the district has acquired.

(2) A contract under Subsection (1)(a) may:

(a) provide for:

- (i) contributions to be made by each contracting party;
- (ii) the division and apportionment of:
 - (A) the expenses of acquisitions and operations; and
 - (B) the contractual benefits, services, and products; and
- (iii) an agency to make acquisitions and carry on operations under the contract;

and

(b) contain covenants and agreements as necessary or convenient to accomplish the purposes of the contract.

Enacted by Chapter 329, 2007 General Session

17B-2a-608. Limit on property tax authority -- Exceptions.

(1) As used in this section, "elected official" means a metropolitan water district board of trustee member who is elected to the board of trustees by metropolitan water district voters at an election held for that purpose.

(2) The board of trustees of a metropolitan water district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:

- (a) the members of the board of trustees are all elected officials; or

- (b) the proposed tax levy has previously been approved by:
 - (i) a majority of the metropolitan water district voters at an election held for that purpose on a date specified in Section 20A-1-204; or
 - (ii) the legislative body of each municipality that appoints a member to the board of trustees under Section 17B-2a-604.

Amended by Chapter 278, 2013 General Session
Amended by Chapter 415, 2013 General Session

17B-2a-701. Title.

This part is known as the "Mosquito Abatement District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-702. Provisions applicable to mosquito abatement districts.

(1) Each mosquito abatement district is governed by and has the powers stated in:

- (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to mosquito abatement districts.
- (3) A mosquito abatement district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-703. Additional mosquito abatement district powers.

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

- (1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:
 - (a) within the district; or
 - (b) outside the district, if lands inside the district are benefitted;
- (2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;
- (3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;
- (4) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- (5) make a contract to indemnify or compensate an owner of land or other property for injury or damage necessarily caused by the exercise of district powers or arising out of the use, taking, or damage of property for a district purpose; and

(6) establish a reserve fund, not to exceed the greater of 25% of the district's annual operating budget and \$50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Enacted by Chapter 329, 2007 General Session

17B-2a-704. Mosquito abatement district board of trustees.

(1) (a) Notwithstanding Subsection 17B-1-302(2):

(i) the board of trustees of a mosquito abatement district shall consist of no less than five members appointed in accordance with this section; and

(ii) subject to Subsection (1)(b), the legislative body of each municipality that is entirely or partly included within a mosquito abatement district shall appoint one member to the board of trustees.

(b) If 75% or more of the area of a mosquito abatement district is within the boundaries of a single municipality:

(i) the board of trustees shall consist of five members; and

(ii) the legislative body of that municipality shall appoint all five members of the board.

(2) The legislative body of each county in which a mosquito abatement district is located shall appoint at least one member but no more than three members to the district's board of trustees as follows:

(a) one member may be appointed if:

(i) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district and Subsection (2)(b) does not apply; or

(ii) (A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and

(B) Subsection (1)(b) does not apply; or

(b) subject to Subsection (3), up to and including three members may be appointed if:

(i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and

(ii) at least four members of the board of trustees are appointed by a municipality.

(3) A member appointed in accordance with Subsection (2)(b) may not reside within a municipality that may appoint a member to the board of trustees.

(4) If the number of board members appointed by application of Subsections (1) and (2)(a) is an even number less than nine, the legislative body of the county in which the district is located shall appoint an additional member.

(5) Notwithstanding Subsection (2):

(a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and

(b) if the mosquito abatement district is located entirely within one county and no municipality may appoint a member of the board of trustees, all of the members of the

board shall be appointed by the county legislative body.

(6) Each board of trustees member shall be appointed as provided in Section 17B-1-304.

(7) Each vacancy on a mosquito abatement district board of trustees shall be filled by the applicable appointing authority as provided in Section 17B-1-304, or if the vacancy is a midterm vacancy, as provided in Section 20A-1-512.

Amended by Chapter 97, 2012 General Session

17B-2a-705. Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall, for at least four weeks before the election:

(a) publish notice of the election in a daily or weekly newspaper published in the district; or

(b) if there is no daily or weekly newspaper published in the district, post notice of the election in three public places in the district.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of \$____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Amended by Chapter 415, 2013 General Session

17B-2a-801. Title.

This part is known as the "Public Transit District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-802. Definitions.

As used in this part:

(1) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(2) (a) "Chief executive officer" means a person appointed by the board of trustees to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees

to be fulfilled by the chief executive officer.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) (a) "General manager" means a person appointed by the board of trustees to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees.

(5) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(6) "Multicounty district" means a public transit district located in more than one county.

(7) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(8) "Public transit" means the transportation of passengers only and their incidental baggage by means other than:

- (a) chartered bus;
- (b) sightseeing bus; or
- (c) taxi.

(9) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

- (a) leased by or operated by or on behalf of a public transit district; and
- (b) related to the public transit services provided by the district, including:
 - (i) railway or other right-of-way;
 - (ii) railway line; and
 - (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(10) "Transit-oriented development" means a mixed-use residential or commercial area that is designed to maximize access to public transit.

(11) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

Amended by Chapter 146, 2011 General Session

17B-2a-803. Provisions applicable to public transit districts.

(1) (a) Each public transit district is governed by and has the powers stated in:

- (i) this part; and
- (ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All Local Districts.

(b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following provisions do not apply to public transit districts:

- (A) Chapter 1, Part 3, Board of Trustees; and
- (B) Section 17B-2a-905.

(ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for Local Districts.

- (2) This part applies only to public transit districts.
- (3) A public transit district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Amended by Chapter 364, 2009 General Session

17B-2a-804. Additional public transit district powers.

- (1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:
 - (a) provide a public transit system for the transportation of passengers and their incidental baggage;
 - (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:
 - (i) principal and interest of bonded indebtedness of the public transit district; or
 - (ii) a final judgment against the public transit district if:
 - (A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and
 - (B) the district is required by a final court order to levy a tax to pay the judgment;
 - (c) insure against:
 - (i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;
 - (ii) public liability;
 - (iii) property damage; or
 - (iv) any other type of event, act, or omission;
 - (d) acquire, contract for, lease, construct, own, operate, control, or use:
 - (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or
 - (ii) any structure necessary for access by persons and vehicles;
 - (e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and
 - (ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;
 - (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
 - (g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States, to:
 - (i) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(I), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented developments or transit-supportive developments; or
 - (ii) study and plan transit facilities in accordance with any legislation passed by Congress;

(h) cooperate with and enter into an agreement with the state or an agency of the state to establish transit facilities and equipment or to study or plan transit facilities;

(i) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(j) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(k) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States; and

(l) subject to the restriction in Subsection (2), assist in a transit-oriented development or a transit-supportive development in connection with the economic development of areas in proximity to a right-of-way, rail line, station, platform, switchyard, terminal, or parking lot, by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the economic development of areas under Subsection (1)(l):

(i) in the manner described in Subsection (1)(l)(i) or (ii); and

(ii) on no more than five transit-oriented developments or transit-supportive developments selected by the board of trustees.

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(l)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(l)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) A public transit district may be funded from any combination of federal, state, or local funds.

(4) A public transit district may not acquire property by eminent domain.

Amended by Chapter 223, 2011 General Session

17B-2a-805. Limitations on authority of a public transit district.

(1) A public transit district may not exercise control over a transit facility or public transit service or system owned or operated inside or outside the district by a governmental entity unless, upon mutually agreeable terms, the governmental entity consents.

(2) (a) A public transit district may not establish, directly or indirectly, a public transit service or system, or acquire a facility necessary or incidental to a public transit service or system, in a manner or form that diverts, lessens, or competes for the

patronage or revenue of a preexisting system of a publicly or privately owned public carrier furnishing like service, unless the district obtains the consent of the publicly or privately owned carrier.

(b) A public transit district's maintenance and operation of an existing system that the district acquires from a publicly or privately owned public carrier may not be considered to be the establishment of a public transit service or system under this Subsection (2).

(c) A public transit district's introduction, maintenance, or operation of a system may not be considered to be the establishment of a public transit service or system under this Subsection (2) if the service or system is introduced, maintained, or operated by the public transit district:

(i) as part of a program of projects approved by the Federal Transit Administration;

(ii) in cooperation with the state or a political subdivision of the state, pursuant to an interlocal agreement; or

(iii) in accordance with Title 72, Chapter 12, Travel Reduction Act.

Amended by Chapter 146, 2011 General Session

17B-2a-806. Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district.

(1) The state or an agency of the state may:

(a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper;

(b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform.

(2) (a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.

(b) A county's use of property tax funds to establish and operate a public transit district within any part of the county is a county purpose under Section 17-53-220.

Enacted by Chapter 329, 2007 General Session

17B-2a-807. Public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative

bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:

(i) 11 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.

(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(e) If the population in the unincorporated area of a county is at least 140,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population within a county's unincorporated area.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.

(iii) The board shall adopt by resolution a schedule reflecting the current and

proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:

(A) upon appointment of a new member under Subsection (2)(o)(v); or

(B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

(a) one member appointed by the speaker of the House of Representatives;

(b) one member appointed by the president of the Senate; and

(c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(8) Each public transit district shall pay to each member:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any member; and

(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two

years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) Except as otherwise authorized under Subsection (2)(g) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

Amended by Chapter 191, 2013 General Session

17B-2a-807.5. Public transit district board of trustees -- Transitional provisions.

(1) (a) A member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, that is ineligible for reappointment under Subsection (3) may remain on the board of trustees and fulfill the member's appointment until July 1, 2010.

(b) The term of a member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, that is ineligible for reappointment under Subsection (3) is extended until July 1, 2010 if the member's term of appointment based on the term limits that existed at the time of the member's appointment expires prior to July 1, 2010.

(2) The term of a member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, shall be extended by two years from the original date of appointment if the member is not ineligible for reappointment under Subsection (3).

(3) A member appointed to a board of trustees in accordance with Subsection 17B-2a-807(2) prior to April 1, 2009, is not eligible for reappointment to serve on the board of trustees upon expiration of the member's existing term if:

(a) (i) the appointing entity that appointed the member has appointed more than one member to the board of trustees that are locally elected public officials and the locally elected public officials are serving concurrently on the board of trustees;

(ii) the member is a locally elected public official that holds an elected position with a municipality; and

(iii) the other member appointed by the appointing entity described in Subsection (3)(a)(i) is a locally elected public official that holds an elected position with a county; or

(b) (i) the appointing entity that appointed the member:

(A) has appointed more than one member to the board of trustees; and

(B) does not have another member appointed by the appointing entity on the board of trustees that is ineligible under Subsection (3)(a);

(C) the member has served more than six months on April 1, 2009; and

(D) the member has served the least amount of time on the board of trustees of all members appointed by that appointing entity to the board of trustees that took the oath of office prior to November 1, 2008.

Enacted by Chapter 364, 2009 General Session

17B-2a-808. Public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each public transit district shall:

(a) appoint and fix the salary of a general manager, a chief executive officer, or both, as provided in Section 17B-2a-811;

(b) determine the transit facilities that the district should acquire or construct;

(c) supervise and regulate each transit facility that the district owns and operates, including:

(i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals, and charges; and

(ii) making and enforcing rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(d) control the investment of all funds assigned to the district for investment,

including funds:

- (i) held as part of a district's retirement system; and
 - (ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;
 - (e) invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
 - (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;
 - (g) (i) cause an annual audit of all district books and accounts to be made by an independent certified public accountant;
 - (ii) as soon as practicable after the close of each fiscal year, submit to the chief administrative officer and legislative body of each county and municipality with territory within the district a financial report showing:
 - (A) the result of district operations during the preceding fiscal year; and
 - (B) the district's financial status on the final day of the fiscal year; and
 - (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon request in a quantity that the board considers appropriate;
 - (h) report at least annually to the Transportation Commission created in Section 72-1-301 the district's short-term and long-range public transit plans, including the transit portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134;
 - (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines to be the most critical to the success of the organization; and
 - (j) hear audit reports for audits conducted in accordance with Subsection (2)(i).
- (3) A board of trustees of a public transit district may:
- (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:
 - (i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and
 - (ii) necessary for:
 - (A) the government and management of the affairs of the district;
 - (B) the execution of district powers; and
 - (C) carrying into effect the provisions of this part;
 - (b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:
 - (i) for a purpose for which the expenditure has been previously approved by the board;
 - (ii) in an amount no greater than the amount authorized; and
 - (iii) approved by the general manager or other officer or deputy as the board prescribes;
 - (c) (i) hold public hearings and subpoena witnesses; and
 - (ii) appoint district officers to conduct a hearing and require the officers to make

findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(f).

(4) A member of the board of trustees of a public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote with each affirmative and negative vote recorded.

(b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or order by voice vote.

(ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if a member of the board so demands.

(c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public transit district may not adopt an ordinance unless it is:

(A) introduced at least a day before the board of trustees adopts it; or

(B) mailed by registered mail, postage prepaid, to each member of the board of trustees at least five days before the day upon which the ordinance is presented for adoption.

(ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote of all board members present at a meeting at which at least 3/4 of all board members are present.

(d) Each ordinance adopted by a public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

Amended by Chapter 281, 2010 General Session

17B-2a-809. Public transit districts to submit agendas and minutes of board meetings.

(1) The board of trustees of each public transit district shall submit to each constituent entity, as defined in Section 17B-1-701:

(a) a copy of the board agenda and a notice of the location and time of the board meeting within the same time frame provided to members of the board prior to the meeting; and

(b) a copy of the minutes of board meetings within five working days following approval of the minutes.

(2) The board may submit notices, agendas, and minutes by electronic mail if agreed to by the constituent entity as defined under Section 17B-1-701.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-2a-810. Officers of a public transit district.

(1) (a) The officers of a public transit district shall consist of:

(i) the members of the board of trustees;

(ii) a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);

(iii) a secretary, appointed by the board of trustees;

- (iv) a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both;
 - (v) a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;
 - (vi) a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);
 - (vii) a treasurer, appointed as provided in Section 17B-1-633;
 - (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);
 - (ix) an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and
 - (x) other officers, assistants, and deputies that the board of trustees considers necessary.
- (b) The board of trustees may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.
- (c) The district chair and vice chair shall be members of the board of trustees.
- (d) The person appointed as general counsel shall:
- (i) be admitted to practice law in the state; and
 - (ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.
- (e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.
- (f) The person appointed as internal auditor shall be a licensed certified internal auditor or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.
- (2) (a) The district's general manager or chief executive officer, as the board prescribes, shall appoint all officers and employees not specified in Subsection (1).
- (b) Each officer and employee appointed by the district's general manager or chief executive officer serves at the pleasure of the appointing general manager or chief executive officer.
- (3) The board of trustees shall by ordinance or resolution fix the compensation of all district officers and employees, except as otherwise provided in this part.
- (4) (a) Each officer appointed by the board of trustees or by the district's general manager or chief executive officer shall take the oath of office specified in Utah Constitution Article IV, Section 10.
- (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district secretary no later than 15 days after the commencement of the officer's term of office.

Amended by Chapter 281, 2010 General Session

17B-2a-811. General manager or chief executive officer of a public transit district.

- (1) (a) The board of trustees of a public transit district shall appoint a person as a general manager.

(b) The board of trustees of a public transit district may, at its discretion, appoint a person as a chief executive officer.

(c) The board of trustees of a public transit district shall allocate the responsibilities defined in Subsection (2) between the general manager and the chief executive officer, if the board of trustees appoints a chief executive officer.

(d) The chief executive officer shall have the same rights allocated to the general manager under Subsections (3) and (4).

(e) The appointment of a general manager, chief executive officer, or both, shall be by the affirmative vote of a majority of all members of the board of trustees.

(f) The board's appointment of a person as general manager, chief executive officer, or both, shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.

(g) A person appointed as general manager or chief executive officer of a public transit district is not required to be a resident of the state at the time of appointment.

(2) A general manager or chief executive officer of a public transit district shall have the following responsibilities as allocated by the board of trustees:

(a) be a full-time officer and devote full time to the district's business;

(b) ensure that all district ordinances are enforced;

(c) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;

(d) keep the board of trustees advised as to the district's needs;

(e) prepare or cause to be prepared all plans and specifications for the construction of district works;

(f) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times; and

(g) attend meetings of the board of trustees.

(3) A general manager of a public transit district:

(a) serves at the pleasure of the board of trustees;

(b) holds office for an indefinite term;

(c) may be removed by the board of trustees upon the adoption of a resolution by the affirmative vote of a majority of all members of the board, subject to Subsection (5);

(d) has full charge of:

(i) the acquisition, construction, maintenance, and operation of district facilities; and

(ii) the administration of the district's business affairs;

(e) is entitled to participate in the deliberations of the board of trustees as to any matter before the board; and

(f) may not vote at a meeting of the board of trustees.

(4) The board of trustees may not reduce the general manager's salary below the amount fixed at the time of original appointment unless:

(a) the board adopts a resolution by a vote of a majority of all members; and

(b) if the general manager demands in writing, the board gives the general manager the opportunity to be publicly heard at a meeting of the board before the final

vote on the resolution reducing the general manager's salary.

(5) (a) Before adopting a resolution providing for a general manager's removal as provided in Subsection (3)(c), the board shall, if the manager makes a written demand:

(i) give the general manager a written statement of the reasons alleged for the general manager's removal; and

(ii) allow the general manager to be publicly heard at a meeting of the board of trustees.

(b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district may suspend a general manager from office pending and during a hearing under Subsection (5)(a)(ii).

(6) The action of a board of trustees suspending or removing a general manager or reducing the general manager's salary is final.

Amended by Chapter 281, 2010 General Session

17B-2a-812. Comptroller required to provide statement of revenues and expenditures.

The comptroller of each public transit district shall, as soon as possible after the close of each fiscal year:

(1) prepare a statement of revenues and expenditures for the fiscal year just ended, in the detail that the board of trustees prescribes; and

(2) transmit a copy of the statement to the chief executive officer of:

(a) each municipality within the district; and

(b) each county with unincorporated area within the district.

Enacted by Chapter 329, 2007 General Session

17B-2a-813. Rights, benefits, and protective conditions for employees of a public transit district -- Strike prohibited -- Employees of an acquired transit system.

(1) The rights, benefits, and other employee protective conditions and remedies of Section 13(c) of the Urban Mass Transportation Act of 1964, 49 U.S.C. Sec. 5333(b), as determined by the Secretary of Labor, apply to a public transit district's establishment and operation of a public transit service or system.

(2) (a) Employees of a public transit system established and operated by a public transit district have the right to:

(i) self-organization;

(ii) form, join, or assist labor organizations; and

(iii) bargain collectively through representatives of their own choosing.

(b) Employees of a public transit district and labor organizations may not join in a strike against the public transit system operated by the public transit district.

(c) Each public transit district shall:

(i) recognize and bargain exclusively with any labor organization representing a majority of the district's employees in an appropriate unit with respect to wages, salaries, hours, working conditions, and welfare, pension, and retirement provisions;

and

(ii) upon reaching agreement with the labor organization, enter into and execute a written contract incorporating the agreement.

(3) If a public transit district acquires an existing public transit system:

(a) all employees of the acquired system who are necessary for the operation of the acquired system, except executive and administrative officers and employees, shall be:

(i) transferred to and appointed employees of the acquiring public transit district; and

(ii) given sick leave, seniority, vacation, and pension or retirement credits in accordance with the acquired system's records;

(b) members and beneficiaries of a pension or retirement plan or other program of benefits that the acquired system has established shall continue to have rights, privileges, benefits, obligations, and status with respect to that established plan or program; and

(c) the public transit district may establish, amend, or modify, by agreement with employees or their authorized representatives, the terms, conditions, and provisions of a pension or retirement plan or of an amendment or modification of a pension or retirement plan.

(4) A pension administrator for a retirement plan sponsored by a public transit district or a person designated by the administrator shall maintain retirement records in accordance with Subsection 49-11-618(2).

Amended by Chapter 448, 2013 General Session

17B-2a-814. Public transit district trustees, officers, and employees subject to Utah Public Officers' and Employees' Ethics Act.

Each trustee, officer, and employee of a public transit district is subject to the provisions of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 223, 2011 General Session

17B-2a-815. Rates and charges for service -- Fare collection information private.

(1) The board of trustees of a public transit district shall fix rates and charges for service provided by the district by a two-thirds vote of all board members.

(2) Rates and charges shall:

(a) be reasonable; and

(b) to the extent practicable:

(i) result in enough revenue to make the public transit system self supporting; and

(ii) be sufficient to:

(A) pay for district operating expenses;

(B) provide for repairs, maintenance, and depreciation of works and property that the district owns or operates;

(C) provide for the purchase, lease, or acquisition of property and equipment;

(D) pay the interest and principal of bonds that the district issues; and
(E) pay for contracts, agreements, leases, and other legal liabilities that the district incurs.

(3) (a) In accordance with Section 63G-2-302, the following personal information received by the district from a customer through any debit, credit, or electronic fare payment process is a private record under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) travel data, including:
(A) the identity of the purchasing individual or entity;
(B) travel dates, times, or frequency of use; and
(C) locations of use;
(ii) service type or vehicle identification used by the customer;
(iii) the unique transit pass identifier assigned to the customer; or
(iv) customer account information, including the cardholder's name, the credit or debit card number, the card issuer identification, or any other related information.

(b) Private records described in this Subsection (3) that are received by a public transit district may only be disclosed in accordance with Section 63G-2-202.

Amended by Chapter 216, 2013 General Session

17B-2a-816. Hearing on a rate or charge or a proposal to fix the location of district facilities.

(1) (a) The legislative body of a county or municipality with territory within a public transit district may, on behalf of a person who is a resident of the county or municipality, respectively, and who is a user of a public transit system operated by the public transit district, file a request for a hearing before the public transit district's board of trustees as to:

(i) the reasonableness of a rate or charge fixed by the board of trustees; or
(ii) a proposal for fixing the location of district facilities.

(b) Each request under Subsection (1)(a) shall:

(i) be in writing;
(ii) be filed with the board of trustees of the public transit district; and
(iii) state the subject matter on which a hearing is requested.

(2) (a) At least 15 but not more than 60 days after a request under Subsection (1)(a) is filed, the public transit district's board of trustees shall hold a hearing on, as the case may be:

(i) the reasonableness of a rate or charge fixed by the board of trustees; or
(ii) a proposal for fixing the location of district facilities.

(b) The public transit district board of trustees shall provide notice of the hearing by:

(i) mailing, postage prepaid, a notice to:
(A) the county or municipality requesting the hearing; and
(B) the legislative body of each other county and municipality with territory within the public transit district; and

(ii) once publishing a notice.

(3) At each hearing under Subsection (2)(a):

(a) the legislative body of a county or municipality may intervene, be heard, and introduce evidence if the county or municipality:

- (i) is eligible to file a request for hearing under Subsection (1); and
- (ii) did not file a request for hearing;

(b) the public transit district, the county or municipality that filed the request for hearing, and an intervening county or municipality under Subsection (3)(a) may:

- (i) call and examine witnesses;
 - (ii) introduce exhibits;
 - (iii) cross-examine opposing witnesses on any matter relevant to the issues, even though the matter was not covered in direct examination; and
 - (iv) rebut evidence introduced by others;
- (c) evidence shall be taken on oath or affirmation;
- (d) technical rules of evidence need not be followed, regardless of the existence of a common law or statutory rule that makes improper the admission of evidence over objection in a civil action;

(e) hearsay evidence is admissible in order to supplement or explain direct evidence, but is not sufficient in itself to support a finding unless it would be admissible over objection in a civil action; and

(f) the public transit district board of trustees shall appoint a reporter to take a complete record of all proceedings and testimony before the board.

(4) (a) Within 60 days after the conclusion of a hearing under Subsection (2)(a), the public transit district board of trustees shall render its decision in writing, together with written findings of fact.

(b) The board of trustees shall mail by certified mail, postage prepaid, a copy of the decision and findings to:

- (i) the county or municipality that filed a request under Subsection (1); and
- (ii) each county and municipality that intervened under Subsection (3)(a).

(5) In any action to review a decision of a public transit district board of trustees under this section, the record on review shall consist of:

- (a) the written request for hearing, the transcript of the testimony at the hearing, and all exhibits introduced at the hearing; or
- (b) if the parties stipulate in writing:
 - (i) the evidence specified in the stipulation; and
 - (ii) the written stipulation itself.

Enacted by Chapter 329, 2007 General Session

17B-2a-817. Voter approval required for property tax levy.

Notwithstanding the provisions of Section 17B-1-1001 and in addition to a property tax under Section 17B-1-1103 to pay general obligation bonds of the district, a public transit district may levy a property tax, as provided in and subject to Chapter 1, Part 10, Local District Property Tax Levy, if:

(1) the district first submits the proposal to levy the property tax to voters within the district; and

(2) a majority of voters within the district voting on the proposal vote in favor of the tax at an election held for that purpose on a date specified in Section 20A-1-204.

Amended by Chapter 415, 2013 General Session

17B-2a-818. Requirements applicable to public transit district contracts.

(1) A public transit district shall comply with the applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(2) If construction of a district facility or work exceeds \$750,000, the construction shall be let as provided in:

- (a) Title 63G, Chapter 6a, Utah Procurement Code; and
- (b) Section 17B-2a-818.5.

Amended by Chapter 347, 2012 General Session

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

- (i) works at least 30 hours per calendar week; and
- (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 90 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the public transit district on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

- (a) the application of this section jeopardizes the receipt of federal funds;
- (b) the contract is a sole source contract; or
- (c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employee's dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
and

(v) the Department of Transportation in accordance with Section 72-6-107.5;
and

(b) which establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of

employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the district shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by an:

(I) actuary; or

(II) underwriter who is responsible for developing the employer group's premium rates; or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Amended by Chapter 347, 2012 General Session

17B-2a-819. Compliance with state and local laws and regulations.

(1) Each public transit district is subject to department regulations relating to safety appliances and procedures.

(2) (a) Each installation by a public transit district in a state highway or freeway is subject to the approval of the department.

(b) There is a presumption that the use of a street, road, highway, or other public place by a public transit district for any of the purposes permitted in this part constitutes no greater burden on an adjoining property than the use existing on July 9, 1969.

(c) If a street, road, or highway, excluding a state highway or freeway, or a pipeline, sewer, water main, storm drain, pole, or communication wire is required to be relocated, replaced, or altered in order for a public transit district to construct or operate its system or to preserve and maintain an already constructed district facility:

(i) the public or private owner of the facility required to be relocated, replaced, or

altered shall relocate, replace, or alter the facility with reasonable promptness; and

(ii) the public transit district shall, by prior agreement, reimburse the owner for the reasonable cost incurred in the relocation, replacement, or alteration.

(d) (i) A public transit district may enter into an agreement with a county or municipality to:

(A) close a street or road over which the county or municipality has jurisdiction at or near the point of its interception with a district facility; or

(B) carry the street or road over or under or to a connection with a district facility.

(ii) A public transit district may do all work on a street or road under Subsection (2)(d)(i) as is necessary.

(iii) A street or road may not be closed, directly or indirectly, by the construction of a district facility unless the closure is:

(A) pursuant to agreement under Subsection (2)(d)(i); or

(B) temporarily necessary during the construction of a district facility.

(3) Each public transit district is subject to the laws and regulations of the state and each applicable municipality relating to traffic and operation of vehicles upon streets and highways.

Enacted by Chapter 329, 2007 General Session

17B-2a-820. Authority for other governmental entities to acquire property by eminent domain for a public transit district.

The state, a county, or a municipality may, by eminent domain under Title 78B, Chapter 6, Part 5, Eminent Domain, acquire within its boundaries a private property interest, including fee simple, easement, air right, right-of-way, or other interest, necessary for the establishment or operation of a public transit district.

Amended by Chapter 3, 2008 General Session

17B-2a-821. Failure to pay fare -- Infraction -- Multicounty district may establish and enforce parking ordinance.

(1) A person may not ride a transit vehicle without payment of the applicable fare established by the public transit district that operates the transit vehicle.

(2) A person who violates Subsection (1) is guilty of an infraction.

(3) The board of trustees of a multicounty district may adopt an ordinance governing parking of vehicles at a transit facility, including the imposition of a fine or civil penalty for a violation of the ordinance.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-2a-822. Multicounty district may employ or contract for law enforcement officers -- Law enforcement officer status, powers, and jurisdiction.

(1) The board of trustees of a multicounty district may employ law enforcement officers or contract with other law enforcement agencies to provide law enforcement services for the district.

(2) A law enforcement officer employed or provided by contract under

Subsection (1) is a law enforcement officer under Section 53-13-103 and shall be subject to the provisions of that section.

(3) Subject to the provisions of Section 53-13-103, the jurisdiction of a law enforcement officer employed under this section is limited to transit facilities and transit vehicles.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-2a-823. Public transit district special services.

(1) As used in this section, "bureau" means a recreational, tourist, or convention bureau established under Section 17-31-2.

(2) (a) A public transit district may lease its buses to private certified public carriers or operate transit services requested by a public entity if a bureau certifies that privately owned carriers furnishing like services or operating like equipment within the area served by the bureau:

(i) have declined to provide the service; or

(ii) do not have the equipment necessary to provide the service.

(b) A public transit district may lease its buses or operate services as authorized under Subsection (2)(a) outside of the area served by the district.

(3) If part or all of the transportation services are paid for by public funds, a public transit district may:

(a) provide school bus services for transportation of pupils and supervisory personnel between homes and school and other related school activities within the area served by the district; or

(b) provide the transportation of passengers covered by a program within the district for people who are elderly or who have a disability.

(4) Notwithstanding the provisions in Subsection (3), a municipality or county is not prohibited from providing the transportation services identified in Subsection (3).

Amended by Chapter 366, 2011 General Session

17B-2a-824. Property acquired on behalf of a public transit district.

(1) Title to property acquired on behalf of a public transit district under this part immediately and by operation of law vests in the public transit district.

(2) Property described in Subsection (1) is dedicated and set apart for the purposes set forth in this part.

Enacted by Chapter 329, 2007 General Session

17B-2a-825. Criminal background checks authorized -- Employment eligibility.

(1) A public transit district may require an individual described in Subsection (2) to:

(a) submit a fingerprint card in a form acceptable to the public transit district; and

(b) consent to a fingerprint background check by:

- (i) the Utah Bureau of Criminal Identification; and
- (ii) the Federal Bureau of Investigation.
- (2) A person shall comply with the requirements of Subsection (1) if the person:
 - (a) is applying for or continuing employment with the public transit district:
 - (i) working in a safety-sensitive position or other position that may affect:
 - (A) the safety or well-being of patrons of the public transit district; or
 - (B) the safety or security of the transit buildings, stations, platforms, railways, bus systems, and transit vehicles;
 - (ii) handling personally identifiable information, financial information, or other sensitive information including personal health information;
 - (iii) working in security-sensitive areas; or
 - (iv) handling security-sensitive information, including information system technologies; or
 - (b) is seeking access to designated security-sensitive areas.
- (3) A public transit district may use the information obtained in accordance with this section only for one or more of the following purposes:
 - (a) to determine whether or not an individual is convicted of:
 - (i) a felony under federal or state law within the last 10 years;
 - (ii) a violation of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic beverage;
 - (iii) a crime involving moral turpitude; or
 - (iv) two or more convictions for a violation of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug;
 - (b) to determine whether or not an individual has accurately disclosed the person's criminal history on an application or document filed with the public transit district;
 - (c) to approve or deny an application for employment with the public transit district; or
 - (d) to take disciplinary action against an employee of the public transit district, including possible termination of employment.
- (4) A person is not eligible for employment with a public transit district in a capacity described in Subsection (2) if the person has been convicted of any of the offenses described in Subsection (3).

Amended by Chapter 281, 2010 General Session

17B-2a-901. Title.

This part is known as the "Service Area Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-902. Provisions applicable to service areas.

- (1) Each service area is governed by and has the powers stated in:
 - (a) this part; and
 - (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All

Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section 26-8a-102 that are provided under a contract in accordance with Section 26-8a-405.2; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section 26-8a-102 that is provided under a contract in accordance with Section 26-8a-405.2;

(iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Amended by Chapter 97, 2012 General Session

17B-2a-903. Additional service area powers -- Property tax limitation for service area providing law enforcement service.

(1) In addition to the powers conferred on a service area under Section 17B-1-103, a service area:

(a) may issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(b) that, until April 30, 2007, was a regional service area, may provide park, recreation, or parkway services, or any combination of those services; and

(c) may, with the consent of the county in which the service area is located, provide planning and zoning service.

(2) A service area that provides law enforcement service may not levy a property tax or increase its certified tax rate, as defined in Section 59-2-924, without the prior approval of:

(a) (i) the legislative body of each municipality that is partly or entirely within the boundary of the service area; and

(ii) the legislative body of the county with an unincorporated area within the boundary of the service area; or

(b) (i) a majority of the legislative bodies of all municipalities that are partly or entirely within the boundary of the service area; and

(ii) two-thirds of the legislative body of the county with an unincorporated area within the boundary of the service area.

Amended by Chapter 218, 2009 General Session

17B-2a-904. Regional service areas to become service areas -- Change from regional service area to service area not to affect rights, obligations, board makeup, or property of former regional service area.

(1) Each regional service area, created and operating under the law in effect before April 30, 2007, becomes on that date a service area, governed by and subject to Chapter 1, Provisions Applicable to All Local Districts, and this part.

(2) The change of an entity from a regional service area to a service area under Subsection (1) does not affect:

(a) the entity's basic structure and operations or its nature as a body corporate and politic and a political subdivision of the state;

(b) the ability of the entity to provide the service that the entity:

(i) was authorized to provide before the change; and

(ii) provided before the change;

(c) the validity of the actions taken, bonds issued, or contracts or other obligations entered into by the entity before the change;

(d) the ability of the entity to continue to impose and collect taxes, fees, and other charges for the service it provides;

(e) the makeup of the board of trustees;

(f) the entity's ownership of property acquired before the change; or

(g) any other powers, rights, or obligations that the entity had before the change, except as modified by this part.

Enacted by Chapter 329, 2007 General Session

17B-2a-905. Service area board of trustees.

(1) (a) Except as provided in Subsection (2) or (3):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

(A) consist of the county legislative body;

(B) be appointed, as provided in Section 17B-1-304; or

(C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

(i) board members shall be elected in conjunction with the bond election;

(ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

(B) provide a ballot for the election of board members separate from the bond ballot; and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

(i) the service area was created to provide:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) the service area is not a service area described in Subsection (3).

(b) (i) Each county whose unincorporated area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint three members to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

(i) the service area was created to provide fire protection, paramedic, and emergency services;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-213(3)(d); and

(iii) each municipality whose area is included within the service area or county whose unincorporated area, whether in whole or in part, is included within a service area is a party to an agreement:

(A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act with all the other municipalities or counties whose area is included in the service area;

(B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection

17B-1-203(1)(d).

(b) (i) Each county whose unincorporated area, whether in whole or in part, is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (3)(a) shall be the number resulting from the application of Subsection (3)(b).

Amended by Chapter 70, 2013 General Session

17B-2a-907. Adding a new service within a service area.

A service area may begin to provide within the boundaries of the service area a service that it had not previously provided by using the procedures set forth in Chapter 1, Part 2, Creation of a Local District, for the creation of a service area as though a new service area were being created to provide that service.

Renumbered and Amended by Chapter 329, 2007 General Session

17B-2a-1001. Title.

This part is known as the "Water Conservancy District Act."

Enacted by Chapter 329, 2007 General Session

17B-2a-1002. Legislative intent -- Purpose of water conservancy districts.

(1) It is the intent of the Legislature and the policy of the state to:

(a) provide for the conservation and development of the water and land resources of the state;

(b) provide for the greatest beneficial use of water within the state;

(c) control and make use of all unappropriated waters in the state and to apply those waters to direct and supplemental beneficial uses including domestic, manufacturing, irrigation, and power;

(d) obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law;

(e) cooperate with the United States and its agencies under federal reclamation or other laws and to construct, finance, operate, and maintain works in the state; and

(f) promote the greater prosperity and general welfare of the people of the state

by encouraging the organization of water conservancy districts.

(2) The creation and operation of water conservancy districts are a public use to help accomplish the intent and policy stated in Subsection (1) and will:

- (a) be essentially for the benefit and advantage of the people of the state;
- (b) indirectly benefit all industries of the state;
- (c) indirectly benefit the state by increasing the value of taxable property in the state;
- (d) directly benefit municipalities by providing adequate supplies of water for domestic use;
- (e) directly benefit lands to be irrigated or drained;
- (f) directly benefit lands now under irrigation by stabilizing the flow of water in streams and by increasing flow and return flow of water to those streams; and
- (g) promote the comfort, safety, and welfare of the people of the state.

Enacted by Chapter 329, 2007 General Session

17B-2a-1003. Provisions applicable to water conservancy districts.

(1) Each water conservancy district is governed by and has the powers stated in:

- (a) this part; and
 - (b) Chapter 1, Provisions Applicable to All Local Districts.
- (2) This part applies only to water conservancy districts.
- (3) A water conservancy district is not subject to the provisions of any other part of this chapter.
- (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Enacted by Chapter 329, 2007 General Session

17B-2a-1004. Additional water conservancy district powers -- Limitations on water conservancy districts.

(1) In addition to the powers conferred on a water conservancy district under Section 17B-1-103, a water conservancy district may:

- (a) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- (b) acquire or lease any real or personal property or acquire any interest in real or personal property, as provided in Subsections 17B-1-103(2)(a) and (b), whether inside or outside the district;
- (c) acquire or construct works, facilities, or improvements, as provided in Subsection 17B-1-103(2)(d), whether inside or outside the district;
- (d) acquire water, works, water rights, and sources of water necessary or convenient to the full exercise of the district's powers, whether the water, works, water rights, or sources of water are inside or outside the district, and encumber, sell, lease, transfer an interest in, or dispose of water, works, water rights, and sources of water;
- (e) fix rates and terms for the sale, lease, or other disposal of water;
- (f) acquire rights to the use of water from works constructed or operated by the

district or constructed or operated pursuant to a contract to which the district is a party, and sell rights to the use of water from those works;

(g) levy assessments against lands within the district to which water is allotted on the basis of:

(i) a uniform district-wide value per acre foot of irrigation water; or

(ii) a uniform unit-wide value per acre foot of irrigation water, if the board divides the district into units and fixes a different value per acre foot of water in the respective units;

(h) fix rates for the sale, lease, or other disposal of water, other than irrigation water, at rates that are equitable, though not necessarily equal or uniform, for like classes of service;

(i) adopt and modify plans and specifications for the works for which the district was organized;

(j) investigate and promote water conservation and development;

(k) appropriate and otherwise acquire water and water rights inside or outside the state;

(l) develop, store, treat, and transport water;

(m) acquire stock in canal companies, water companies, and water users associations;

(n) acquire, construct, operate, or maintain works for the irrigation of land;

(o) subject to Subsection (2), sell water and water services to individual customers and charge sufficient rates for the water and water services supplied;

(p) own property for district purposes within the boundaries of a municipality; and

(q) coordinate water resource planning among public entities.

(2) (a) A water conservancy district and another political subdivision of the state may contract with each other, and a water conservancy district may contract with one or more public entities and private persons, for:

(i) the joint operation or use of works owned by any party to the contract; or

(ii) the sale, purchase, lease, exchange, or loan of water, water rights, works, or related services.

(b) An agreement under Subsection (2)(a) may provide for the joint use of works owned by one of the contracting parties if the agreement provides for reasonable compensation.

(c) A statutory requirement that a district supply water to its own residents on a priority basis does not apply to a contract under Subsection (2)(a).

(d) An agreement under Subsection (2)(a) may include terms that the parties determine, including:

(i) a term of years specified by the contract;

(ii) a requirement that the purchasing party make specified payments, without regard to actual taking or use;

(iii) a requirement that the purchasing party pay user charges, charges for the availability of water or water facilities, or other charges for capital costs, debt service, operating and maintenance costs, and the maintenance of reasonable reserves, whether or not the related water, water rights, or facilities are acquired, completed, operable, or operating, and notwithstanding the suspension, interruption, interference,

reduction, or curtailment of water or services for any reason;

(iv) provisions for one or more parties to acquire an undivided ownership interest in, or a contractual right to the capacity, output, or services of, joint water facilities, and establishing:

(A) the methods for financing the costs of acquisition, construction, and operation of the joint facilities;

(B) the method for allocating the costs of acquisition, construction, and operation of the facilities among the parties consistent with their respective interests in or rights to the facilities;

(C) a management committee comprised of representatives of the parties, which may be responsible for the acquisition, construction, and operation of the facilities as the parties determine; and

(D) the remedies upon a default by any party in the performance of its obligations under the contract, which may include a provision obligating or enabling the other parties to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting party; and

(v) provisions that a purchasing party make payments from:

(A) general or other funds of the purchasing party;

(B) the proceeds of assessments levied under this part;

(C) the proceeds of impact fees imposed by any party under Title 11, Chapter 36a, Impact Fees Act;

(D) revenues from the operation of the water system of a party receiving water or services under the contract;

(E) proceeds of any revenue-sharing arrangement between the parties, including amounts payable as a percentage of revenues or net revenues of the water system of a party receiving water or services under the contract; and

(F) any combination of the sources of payment listed in Subsections (2)(d)(v)(A) through (E).

(3) (a) A water conservancy district may enter into a contract with another state or a political subdivision of another state for the joint construction, operation, or ownership of a water facility.

(b) Water from any source in the state may be appropriated and used for beneficial purposes within another state only as provided in Title 73, Chapter 3a, Water Exports.

(4) (a) Except as provided in Subsection (4)(b), a water conservancy district may not sell water to a customer located within a municipality for domestic or culinary use without the consent of the municipality.

(b) Subsection (4)(a) does not apply if:

(i) the property of a customer to whom a water conservancy district sells water was, at the time the district began selling water to the customer, within an unincorporated area of a county; and

(ii) after the district begins selling water to the customer, the property becomes part of a municipality through municipal incorporation or annexation.

(5) A water conservancy district may not carry or transport water in transmountain diversion if title to the water was acquired by a municipality by eminent domain.

(6) A water conservancy district may not be required to obtain a franchise for the acquisition, ownership, operation, or maintenance of property.

(7) A water conservancy district may not acquire by eminent domain title to or beneficial use of vested water rights for transmountain diversion.

Amended by Chapter 47, 2011 General Session

17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

(1) Members of the board of trustees for a water conservancy district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the water conservancy district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (4)(a).

(2) (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).

(b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

(c) (i) For a district located in more than a single county, the governor, with the consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.

(B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.

(iii) (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.

(B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.

(iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.

(v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.

(d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses

those rights as part of that person's livelihood.

(3) (a) At least 90 days before expiration of an appointed trustee's term, the board shall give written notice of the upcoming vacancy and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts.

(b) (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).

(ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.

(iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.

(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the consent of the Senate.

(c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.

(4) (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8) (a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;

- (iv) allocate and reallocate the use of water to lands within the district;
- (v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;
- (vi) create a lien, as provided in this part, upon land to which the use of water is transferred;
- (vii) discharge a lien from land to which a lien has attached; and
- (viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b) (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii) (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Amended by Chapter 159, 2010 General Session

17B-2a-1006. Limits on water conservancy district property tax levy -- Additional levy.

(1) Except as provided in Subsection (2), and subject to Subsection (3) and Section 17B-2a-1009, the property tax levy of a water conservancy district for all purposes may not exceed:

(a) .0001 per dollar of taxable value of taxable property in the district, before the earliest of:

- (i) the planning or design of works;
- (ii) the acquisition of the site or right-of-way on which the works will be constructed; or

(iii) the commencement of construction of the works; and

(b) .0002 per dollar of taxable value of taxable property in the district, after the earliest of the events listed in Subsection (1)(a).

(2) Subject to Subsection (3) and Section 17B-2a-1009:

(a) in a district that contains land located within the Lower Colorado River Basin, the levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of .001 per dollar of taxable value of taxable property in the district; and

(b) in a district to be served under a contract, water appropriation, water allotment, or otherwise by water apportioned by the Colorado River Compact to the Upper Basin, the levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of .0004 per dollar of taxable value of taxable property.

(3) A water conservancy district may impose an additional property tax levy, not to exceed .0001 per dollar of taxable value of taxable property in the district, if the additional levy is necessary to provide adequate funds to pay maturing bonds or other debts of the district.

Amended by Chapter 159, 2010 General Session

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the

boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) publish notice of the petition and of the hearing required under Subsection

(4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the

petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution or ordinance under Subsection (7)(a)(i), the contract assessment associated with allotting water to the assessed land under the water contract becomes a perpetual lien on the assessed land.

(c) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) twice publish a notice, at least a week apart:

(A) (I) in a newspaper of general circulation in each county with assessed land included within the district boundaries; or

(II) if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county;

(B) that contains:

(I) a general description of the assessed land;

(II) the amount of the contract assessment; and

(III) the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(i)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007 under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Amended by Chapter 360, 2008 General Session

17B-2a-1008. Subdistricts to become water conservancy districts.

Each water conservancy subdistrict, created and operating under the law in effect before April 30, 2007 and existing on April 30, 2007, shall, on that date, become a water conservancy district.

Enacted by Chapter 329, 2007 General Session

17B-2a-1009. Limit on property tax authority -- Exceptions.

(1) As used in this section, "elected official" means a water conservancy district board of trustee member who:

(a) is elected to the board of trustees by water conservancy district voters at an election held for that purpose;

(b) holds, at the time of appointment to the board of trustees, an elected position

with a municipality, county, or local district that is partially or completely included within the boundaries of the water conservancy district; or

(c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f) or (g).

(2) The board of trustees of a water conservancy district may not collect property tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax rate under Section 59-2-924 unless:

(a) the members of the board of trustees are all elected officials;

(b) the majority of the board of trustees are elected officials; or

(c) the proposed tax levy has previously been approved by:

(i) a majority of the water conservancy district voters at an election held for that purpose on a date specified in Section 20A-1-204; or

(ii) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.

Amended by Chapter 415, 2013 General Session

17B-2a-1010. Capital asset assessment, maintenance, and replacement policy.

(1) As used in this section:

(a) "Capital asset" means one of the following that is:

(i) a significant investment or an essential component necessary to provide a service, including:

(A) a facility;

(B) infrastructure, whether above or below ground level;

(C) equipment; or

(D) a communications network; and

(ii) owned by a qualified water conservancy district.

(b) "Policy" means the capital asset assessment, maintenance, and replacement policy required under Subsection (2).

(c) "Qualified capital asset" means a capital asset that is:

(i) identified in a policy in accordance with Subsection (2)(b); and

(ii) inventoried, assessed, funded, or otherwise subject to a qualified water conservancy's policy in accordance with this section.

(d) "Qualified water conservancy district" means a water conservancy district with an annual operating budget greater than \$5,000,000.

(2) (a) Each qualified water conservancy district shall adopt a policy for the assessment, maintenance, and replacement of capital assets that are qualified capital assets.

(b) The policy shall adopt language that defines in general or specific terms which capital assets are qualified capital assets.

(3) The policy shall require the qualified water conservancy district to:

(a) complete an inventory of each qualified capital asset, including for each qualified capital asset:

(i) an engineering description;

(ii) location;

- (iii) physical dimensions and condition;
 - (iv) documentation of the qualified capital asset's standard features;
 - (v) warranties;
 - (vi) maintenance history;
 - (vii) replacement costs;
 - (viii) market value;
 - (ix) original useful life; and
 - (x) remaining useful life; and
- (b) assess the physical condition of the qualified capital asset in accordance with a method established under Subsection (4)(a)(i) at least every five years.
- (4) (a) The policy shall establish:
- (i) a method to assess the physical condition of each qualified capital asset;
 - (ii) performance and condition standards for each qualified capital asset;
 - (iii) a program for monitoring and reporting the qualified water conservancy district's application of and compliance with the policy, including a comparison of each qualified capital asset's current status and targeted standards for that qualified capital asset as set forth in the policy;
 - (iv) a process for the qualified water conservancy district to evaluate existing qualified capital assets for efficiency and expected service delivery; and
 - (v) objective criteria for the qualified water conservancy district to prioritize maintenance or replacement of qualified capital assets.
- (b) A performance and condition standard described in Subsection (4)(a)(ii) may be:
- (i) a mandated safety standard;
 - (ii) a standard condition of receiving federal, state, or local funding; or
 - (iii) an applicable engineering or other professional standard.
- (5) As part of the policy, the qualified water conservancy district shall adopt financial guidelines to dedicate revenue to a priority qualified capital asset identified under Subsection (4)(a)(v) in accordance with a multiyear qualified capital plan described in Subsection (6)(a).
- (6) (a) Each qualified water conservancy district shall adopt a multiyear qualified capital asset plan.
- (b) Each qualified water conservancy district shall:
- (i) include criteria and guidelines in the policy for allocating sufficient funds in a multiyear qualified capital asset plan and in the qualified water conservancy district's annual operating budget for assessing, maintaining, repairing, and replacing qualified capital assets;
 - (ii) establish an ongoing source of funds in the multiyear qualified capital asset plan and each annual operating budget for repair and replacement costs of qualified capital assets in accordance with the policy; and
 - (iii) establish a repair and replacement reserve for capital projects in its capital projects fund and allocate from the repair and replacement reserve subject to Subsection 17B-1-612(5).
- (c) The board of trustees of a qualified water conservancy district shall adopt an annual operating budget that includes ongoing funding described in Subsection (6)(b)(ii).

(7) (a) A qualified water conservancy district shall submit a report of the qualified water conservancy district's qualified capital asset facilities to the director of the Division of Water Resources, established in Section 73-10-18, no later than December 31, 2017, and no less than every five years thereafter.

(b) The qualified capital asset facilities report required under Subsection (7)(a) shall:

(i) describe the proposed replacement time frame for each qualified capital asset;

(ii) account for each funding source for the qualified capital asset and include any restrictions a funding source may impose on the use or disposal of qualified capital assets;

(iii) account for any change in a qualified capital asset's value since the last qualified capital asset facilities report submitted by the qualified water conservancy district; and

(iv) provide a statement of actual expenditures and performance data for each qualified capital asset compared to budgeted expenditures.

Enacted by Chapter 471, 2013 General Session